

at AFS

The CCCO Program

Purpose

- to maintain freedom of conscience
- to interpret the moral and legal basis of conscientious refusal to participate in war and conscription
- to counsel and assist draft age men, their counselors and their attorneys
- to encourage an end to conscription

Services Offered

- counsel and assist all those who seek its aid, directly and in co-operation with local agencies
- provide legal advice and recommend legal counsel for men facing criminal prosecution or initiating legal action
- try to secure the release of men who become COs after entering the armed forces
- work to secure for imprisoned objectors as many human rights as possible while confined
- publish information useful to counseling agencies, lawyers and objectors

*The Committee's work depends entirely on voluntary contributions.
Your support is invited.*

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HANDBOOK

for

CONSCIENTIOUS OBJECTORS

TENTH EDITION

October, 1968

CENTRAL COMMITTEE
FOR CONSCIENTIOUS OBJECTORS
National Counseling Agency

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Handbook for Conscientious Objectors

Edited by
ARLO TATUM

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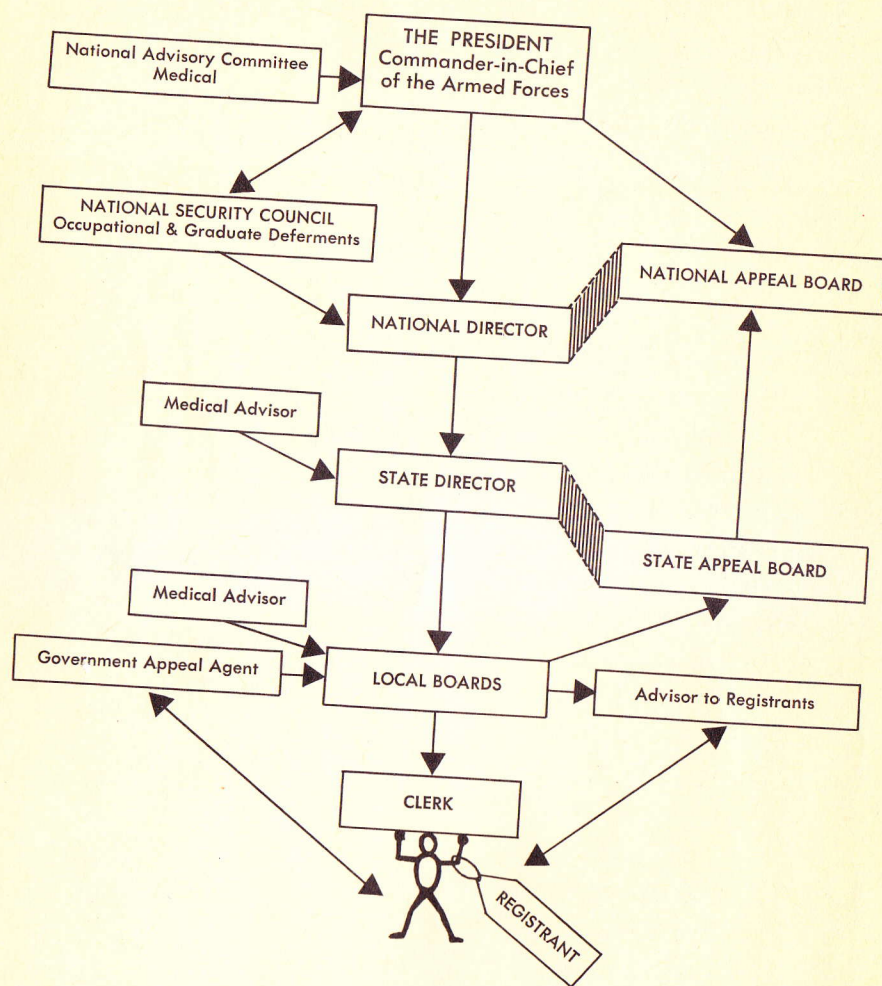
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THE SELECTIVE SERVICE SYSTEM



"... in a Free Society the obligations and privileges of serving in the armed forces ... should be shared generally ..."

1. Introduction

While this *Handbook* emphasizes the special problems of conscientious objectors, it is intended to be of practical use to all men confronted by the draft.

Any effort to categorize the many types of conscientious objectors is unsatisfactory, for COs tend to take very individual positions. The law seeks to set apart the religious objector from the non-religious, calling the latter "essentially political, sociological, philosophical" or followers of a "merely personal moral code." Some students of law feel that the United States Supreme Court decision in *US v. Seeger* has rendered those distinctions less meaningful, although the self-declared atheist CO who insists he is not religious has yet to have his day in court, and the 1967 law is a new attempt by Congress to restrict the number of those who qualify.

Today many young men conscientiously object to participation in the armed forces—on political, moral, religious or humanitarian grounds—but do not consider themselves to be opposed to "war in any form." Some believe in "wars of liberation"; some believe only in fighting when one's nation is attacked; some believe they would have fought Hitler, and that another such man might rise to power; some are "nuclear pacifists." In one way or another each of these men examines a particular war through the perspective of his own personal beliefs—however he may formulate and express them—to determine whether that war is "just." If he is convinced that the war is unjust, he conscientiously objects to participation in the armed forces, or takes the much rougher course of accepting induction but refusing orders to take part in that particular conflict.

Many who consider themselves to be "selective objectors" find they can qualify for CO status by taking what might be called an existential approach. The more improbable it is that the circumstances in which one would fight will ever arise, the more likely it is that one is in effect opposed to all war. To obtain CO status one does not have to swear that he would have been a CO at all points in human history, nor that he will always be a CO, nor that he would be if he were someone else. Although draft boards are fond of asking hypothetical questions in historic and futuristic settings, the statement one signs reads: "I am" a CO. Who can say with certainty what he would do if he were a black South African, or what his beliefs will be in twenty years time?*

*For a fuller discussion send to CCCO for "So you would have fought Hitler?" and "So you would defend this country if attacked?" Single copies free.

Draft boards also tend not to understand that one can be strongly opposed to participation in "war in any form" and *not* be a pacifist, in the sense of adhering to nonviolence as a matter of principle in all personal relationships. While the conventional religious pacifist obviously has the least difficulty in obtaining CO status, no man conscientiously opposed to training with weapons (I-A-O) or to entering the armed forces (I-O), should adopt another course of action on the assumption he is excluded from recognition as a CO.

The outward manifestations of personal beliefs are as varied as the beliefs themselves. Not all conscientious objectors see the obtaining of a I-A-O (non-combatant) or I-O (alternative service) classification as appropriate or morally acceptable. Part I of the *Handbook* may be of only academic interest to them. Non-cooperators refuse to register, or, more commonly, withdraw their cooperation at some point after registration by refusing to fill out further forms, or returning or destroying their registration certificates and classification cards. Others will cooperate with all but the induction order; still others emigrate, mostly to Canada.

Whether one is a CO or not, *help is available for all who request it*. Misinformation is often given out by untrained Selective Service employees, and by persons well-motivated but insufficiently informed to deal with the complexities of the Selective Service System. CO draft counselors connected with CCCO and the American Friends Service Committee, which has area and regional offices, have for the most part undergone some training. So have the counselors of a number of local centers and groups. Be in touch with a competent source of information *before* a crisis arises. There is one other national counseling agency, the National Service Board For Religious Objectors, Washington Building, 15th and New York Avenue, N.W., Washington, D.C. 20005, Area Code 202, 393-4868. Deal with only one, to prevent unnecessary overlap.

In your first letter to a national agency requesting assistance, *give full information about yourself*, including date of birth; a complete chronological record of all dealings with Selective Service, such as dates of any classifications received. If a Special Form for Conscientious Objectors (Form 150) has been filed, include a copy of your answers.

In compiling this *Handbook* we have drawn on the experience of our more than twenty years of counseling under the draft laws. A registrant who knows what he is doing and how to do it will avoid many serious pitfalls. Because of ignorance or carelessness many sincere conscientious objectors have gone to prison and no doubt thousands who could have been deferred have been drafted.

II. Protect Yourself - - Follow These Suggested Rules

Those seeking any classification other than I-A should become thoroughly familiar with the material in the *Handbook*, and should follow these rules:

- (1) *Keep copies* of everything sent to your local board; keep everything received from the local board.
- (2) *Make all requests, appeals, etc., in writing*. Protect yourself further by using certified mail, return receipt requested. Staple the receipt to your copy of the communication.
- (3) *Accept no oral promises* from draft board clerks or members. Follow the printed instructions on forms and notices explicitly; or secure competent counsel if you do not understand the instructions, or if you cannot conscientiously follow them.
- (4) *Present as full a case* as possible to your draft board, even if you think it is hopelessly hostile to you and intends to disregard whatever you or your witnesses may say. Do not omit any relevant points in hearings or correspondence with your board. They may later prove to be the basis for setting aside an action of the board.
- (5) *Observe deadlines*, especially on appeals which must be delivered to the local board office or postmarked within thirty days of the date on which Notice of Classification was mailed to you (not received by you). Report changes of address promptly, lest you miss a notice which may have to be appealed. Appeal everything you find unacceptable, even if you do not seem to have grounds *at that time* to appeal. *Appeal whenever in doubt*. It is sufficient if you merely write the date on a piece of paper and the words "I request a personal appearance" or "I appeal," and sign your name. Let the draft board puzzle over what you are appealing for or about, if an ambiguity exists. Such evidence of an appeal may mean the difference between losing and winning a case.
- (6) *If away from home* (as on vacation), arrange either to have your mail forwarded promptly or opened for you. More appeals and hearings are forfeited through delayed forwarding or opening of mail than for any other reason. If abroad, give your board an address.
- (7) *Know what you believe*. If a CO, practice expressing your beliefs both orally and in writing. If a church member, know what your church says about war and conscientious objection.

Consult the brief bibliography in Part 5 for reading suggestions in many fields of conscientious objection; it will give you ideas for further reading and study.

- (8) *If in doubt, get help.*
- (9) Following these suggestions will improve any registrant's chances of obtaining the classification he wishes, and will help him in the event that Selective Service denies his claim and orders him inducted. A complete record with no procedural errors by the registrant is almost a necessity if a subsequent criminal prosecution is to be successfully contested.
- (10) *Remember that regulations and practices are subject to change.* Any such changes are reported in CCCO's bi-monthly *News Notes*, available without charge on request. Those who can contribute even nominally are asked to do so as CCCO relies upon voluntary gifts for its continued existence.

WARNING

In the current rather emotional atmosphere the frequency of procedural errors on the part of local draft boards has increased noticeably. In reading this *Handbook* please bear this in mind. If the local board does not respond as you think it should, contact your nearest draft counselor or CCCO *at once* for advice on remedial action.

In the best of circumstances local boards act very differently—just as registrants do. You cannot prevent their mistakes, but only your own. You can correct their mistakes, but cannot always erase your own. Several men are in prison *right now* because of their own mistakes.

The Selective Service System

—How it Works

1. The Structure

If your local board is legally constituted, it has a minimum of three members of either sex all of whom are over 30 and under 75 years of age and live in the county in which your board functions. All have served for less than 25 years, and none is in the armed forces or reserve components thereof. A majority constitutes the quorum necessary to make valid decisions. They are untrained volunteers, technically nominated by the Governor of the state and appointed by the President of the United States. Most boards meet once a month, some twice, for a few hours.

In law the paid ungraded civil servant who functions as clerk simply carries out the decisions of the board, and places before it the requests of the registrants. In practice the clerk is very powerful and should be treated accordingly. Many local boards are not able to examine all the files of registrants, and rely upon the clerks to make those classifications which seem to be "routine." Although such classifications are illegal, the huge number of registrants handled by each board makes it almost a physical necessity to function improperly—except for those 772 local boards with less than 2,500 registrants. At the other extreme three boards have over 50,000 registrants each, according to the National Advisory Commission on Selective Service.

Each local board has a Government Appeal Agent, with whom registrants are invited to consult (SSS Form 217). Although the invitation says the registrant can get "legal counsel on Selective Service matters," it is not a lawyer-client relationship, because the Government Appeal Agent is charged by law "to be equally diligent in protecting the interest of the Government and the rights of the registrant." [Sec. 1604.71(d) (5)]*

*This and all references cited in this manner refer to the Selective Service Regulations, which may be consulted at the local draft board offices, counseling agencies, or purchased from the Superintendent of Documents, Washington, D.C. (\$5.00). Citations such as [Act, Sec. 12 (d)] refer to the Act of 1967.

Most local boards have a Medical Advisor to "advise the local board regarding the physical and mental condition of its registrants." (Sec. 1604.61). Some boards have Advisors to Registrants "to advise and assist registrants in the preparation of questionnaires and other Selective Service forms and . . . other matters relating to their liabilities under the Selective Service law." Where such advisors exist their names and addresses "shall be conspicuously posted in the local board office." (Sec. 1604.41)

STATE APPEAL BOARDS

Over the approximately 4,100 local draft boards exist what are called State Appeal Boards. The Canal Zone, the District of Columbia, Guam, Puerto Rico, the Virgin Islands and New York City are treated as "states." There are 94 State Appeal Boards altogether—at least one for every Federal Court District. State Appeal Boards are "normally of five members," but additional five member sub-panels may be established with the same decision-making powers. As in the case of local boards, members are volunteers between the ages of 30 and 75, cannot serve more than 25 years or be members of the armed forces or reserves. They must be residents "of the area in which their board is appointed." (Sec. 1604.22).

Appeal boards make their decisions solely on the basis of the registrant's file. If the registrant has had a personal appearance before his local board before appealing, *as is strongly recommended*, the registrant's report will be part of the file. Unfortunately, the vast majority of registrants do not exercise their right to appeal. A higher proportion of California registrants appeal local board decisions than elsewhere, but still only one out of 109 men appealed there in 1966. In Puerto Rico only one out of 41,000 registrants appealed, according to the National Advisory Commission's study. The same study showed that State Appeal Board reversals of local board decisions range from 67% in Maryland and Alaska to 0% in South Dakota and Puerto Rico.

NATIONAL APPEAL BOARD

There are three paid members of the National Selective Service Appeal Board. They cannot be members of the armed forces. This Board represents the President, and an appeal to it is therefore called a Presidential Appeal. National and State Selective Service Directors can make such an appeal in which case the latter must put "a written statement of his reasons" in the registrant's file. [Sec. 1627.1(c)]. The registrant, his dependent, or his employer in the case of appeals for occupational deferment, may make a Presidential Appeal within 30 days only if the State Appeal Board decision was not unanimous.

STATE AND NATIONAL DIRECTORS

The National Director of Selective Service has very broad powers. Both he and the State Directors often use their power to appeal on behalf of the registrant to cancel induction orders and reopen registrants' classifications when local boards make serious mistakes which are brought to their attention. These same powers are sometimes used to remove classifications which registrants requested and obtained.

This, then, is the Selective Service System to which over 36 million males living in the United States have legal obligations.

II. Procedure for all Classifications

Selective Service is operating under Title I of the Universal Military Training and Service Act, as Amended. The Act was approved by Congress, June 19, 1951 as an amendment to and extension of the Selective Service Act of 1948. In 1963 the Act was extended four years, and again on July 1, 1967, when its name was changed to Military Selective Service Act of 1967.

Criminal Penalties—

"... any person ... who evades or refuses registration or service in the armed forces or any of the requirements of this title, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title ... or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in execution of this title, or rules, regulations, or directions made pursuant to this title, or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title ... shall, upon conviction in any district court of the United States ... be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment ... [Act, sec. 12 (a)]"

REGISTRATION

All male citizens and all male resident aliens** born between October 1, 1922 and September 18, 1930 were required to register during the original registrations in August-September, 1948. Any man subsequently becoming 18 years of age must "present himself for and submit to registration" within five days of his 18th birthday. Any one who becomes 18 while out of the country registers with "(1) any diplomatic or consular officer of the United States who is a citizen of the United States, or (2) any duly appointed registration official." (President's Proclamation 2972). Anyone required to register who has not complied is subject to a continuing duty to register. [Sec. 1611.7 (c)]

An amendment to the draft act (passed June 27, 1957) empowers

*All persons convicted of violating the Selective Service Act, no matter what sentence, if any, is actually imposed, are felons: "(1) Any offense punishable by death or imprisonment for a term exceeding one year is a felony." (F.C.A. 18 Sec. 1) Persons convicted of felonies under federal law lose voting and other civil rights in some states, and may suffer serious economic disabilities, particularly in the professions. Such civil rights can be restored by a pardon from the President.

**Non-resident aliens who are not required to register must have in their possession "an official document ... which identifies him as a person not required to" register. Sec. 1611.2 (b) defines non-resident aliens not required to register.

the President to issue special draft calls for needed medical personnel from those liable to military duty under the regular draft law. Liability in age 35 is actual; dependents do not constitute grounds for deferment, and the physical standards set for regular draftees do not apply.

Registration Card—

The registration card is filled out by the registrar. The 15 questions on it pertain to identification, occupation, marital status, and World War II status. The registrant shall then sign the card; if he refuses to sign it, the registrar shall sign the card for him, "and such registrant shall thereby be registered." [Sec. 1613.13 (c)]* The registrant does not state his CO claim on the registration card. (The first opportunity to do so will be on the Classification Questionnaire, which is filed later.)

"If a registrant refuses to cooperate or is inclined to evade, refuses to answer, or answers falsely," he shall be warned, and "if he is still refractory," criminal action is possible. (Sec. 1613.16) An inmate of a prison or other institution will be registered by institution officials on the day he leaves the institution. (Sec. 1611.6, 1613.41) Each registrant is given a registration certificate, which he always must have in his personal possession. (Sec. 1617.1)

Transfer of Registration—

If a registrant is not within the area of his residence at the time he registers, his registration will be sent to the proper local board. (Sec. 1613.43) If a registrant is "so far from his local board as to make complying with notices a hardship," and has never been classified, his registration may be transferred to a board closer to him for classification. (Sec. 1623.9) Irrespective of changes of residence after classification, a registrant is always under the same local board, and his case cannot be transferred from one local board to another except for physical examination or induction. However, those who register abroad and subsequently return to the USA will be transferred from Local Board #100 in Washington, D.C., to the board having jurisdiction over the domestic address.

CLASSIFICATION

Method of Classification—

"In Class I-A shall be placed every registrant who has failed to establish to the satisfaction of the local board, subject to appeal hereinafter provided, that he is eligible for classification in another class." (Sec. 1622.10) However, after the registrant establishes grounds for some classification other than I-A, he "... shall be classified in the lowest class for which he is determined to be eligible." (Sec. 1623.2)

*See *Norton v. U.S.* 179 F.2d 527 (2 Cir.) 1950, for ruling that refusal to sign the registration card is not a crime, but refusing to answer the questions necessary for registration probably is. "The regulations having provided a substitute for the registrant's signature, we believe that the substitute was meant to serve for all purposes, including the condoning of the refusal. Criminal statutes must be strictly construed. If the substantive duty of furnishing all requested information is performed by a registrant, we think he does 'submit to registration'..."

I-A is considered the highest class followed by I-A-O and so on down through the classifications in the following order:

I-A—Available for military duty.

- (1) Delinquents,* 19 years and over, oldest being inducted first.
- (2) Volunteers under 26, in sequence in which they volunteered.
- (3) Single men and those married after August 26, 1965, between 19 and 26 birthday, oldest being inducted first.
- (4) Men between 19 and 26 birthdays, married before August 27, 1965, oldest being inducted first.
- (5) Registrants, 26 years and over with extended liability, the youngest being inducted first.**
- (6) Registrants between the ages of 18½ and 19, the oldest being inducted first. [Sec. 1631.7 (a)]

I-A-O—CO available for noncombatant duty only, in the same order as above.

I-O—CO opposed to both combatant and noncombatant military duty and available for assignment to civilian work in the same order as I-As and I-A-Os.

I-S—High school student, I-S (H) under 20 years of age; or college student, I-S (C), who has received an order to report for induction and is deferred to complete his school year.

I-Y—Qualified for military or alternative service only in time of war or national emergency.

II-A—Deferred because of essential employment, except agriculture or study.

II-C—Deferred because of essential agricultural employment.

II-S—Deferred for study

I-D—Member of reserve unit of the armed forces, or student taking military training.

III-A—Deferred because induction would cause extreme hardship to dependents. III-A mandatory classification if registrant notified local board of wife and child (born or conceived), and bona fide family relationship maintained.

IV-A—Completed military duty; sole surviving son.

IV-B—Officials deferred by law.

IV-C—Certain aliens including those not on permanent resident status who have remained in the United States for less than one year.***

*However, a delinquent can be ordered for induction even though he has not been physically examined and found acceptable to the armed forces. (Sec. 1631.7)

**The 1967 Act empowers the Secretary of Defense to designate the age group or groups from which men are to be drafted, the oldest first. If this power is used, the designated (or prime) age group would replace (3), (4), and (5) above. Such a change would be well publicized in advance.

***Aliens admitted to study in the United States and various other categories are not required to register for the draft. See Sec. 1611.2 (b) for details. An alien may be placed in Class I-O or any deferred category other than IV-C without affecting his eligibility for citizenship. He can also return home and be classified IV-C. Alien COs can obtain from CCCO information on the special problems of alien pacifists seeking U.S. Citizenship.

IV-D—Ministers and full time students preparing for the ministry under the direction of a recognized church or religious organization.

IV-F—Not qualified for any service.

V-A—Over age: 26 years old for registrants not deferred on or after June 19, 1951; 35 years old for those with "extended liability."*

I-W—COs in assigned civilian service. Upon satisfactory completion of 24 months of civilian service or upon earlier release, COs are classified I-W (Rel.) until past the age of liability for the draft when they are reclassified V-A.

I-C—Member of the armed forces.

General Classification Questionnaire—

Local boards mail the Classification Questionnaire (SSS Form 100) to each registrant within a few months after registration. The questionnaire must be completed and returned within ten days of the date on which it was mailed, unless the local board has granted an extension of time for "valid reason." (Sec. 1621.10) Failure to return the questionnaire is a violation of the Selective Service Act and subjects the registrant to summary classification in I-A.**

The Classification Questionnaire*** is divided into 13 series of questions beginning I. Identification; II. Military Record; III. Marital Status and Dependents; IV. Registrant's Family;

Series III and Series IV concern classification III-A.

Question No. 2 is for claiming deferment as a father. Deferment is mandatory for a father who has a child or children "with whom he maintains a bona fide family relationship in their home."

The term "child" includes a legitimate or illegitimate child from the date of its conception, a legally adopted child, stepchild or foster child. If a registrant thinks the board may question whether or not he lives with his children in a "bona fide family relationship," he should file supporting letters from ministers, social workers, or others who can testify to the rightness of his claim.

If a registrant claims deferment because he is the father of an unborn child, a letter from the examining physician giving the anticipated birth date is required.

The III-A fatherhood deferment is not available to doctors and

*A registrant incurs extended liability (draft obligation to 35th birthday) if he has ever received a deferred classification, such as I-S, I-Y, II-A, II-S, III-A, or IV-F.

**"The mailing by the local board of a Classification Questionnaire . . . to the latest address furnished by a registrant shall be notice to the registrant that unless information is presented to the local board, within the time specified for the return of the questionnaire, which will justify a deferred classification, the registrant will be classified in Class I-A," [Sec. 1622.1 (c)]

***For further details ask for CCCO's memo on Filling Out SSS Form 100.

allied medical specialists, nor to men who at any time requested and received an undergraduate II-S deferment after June 30, 1967.

Also placed in III-A, at local board discretion, are registrants whose induction would cause extreme hardship to their dependents. As in the case of the fatherhood deferment, the words "child" and "dependent" are used broadly, to include anyone under 18 "who is supported in good faith by the registrant" in a father-child kind of relationship, or one over 18 who is physically or mentally handicapped [Sec. 1622.30 (c)]. The dependent may also be the registrant's wife, divorced wife, parent, grandparent, brother or sister. The board wants to know how much money the registrant contributes to support his dependents. It will then be determined whether his support can be replaced by military allowances, by what dependents can earn, or by what others can contribute to dependents (the last is determined by answers to Series IV). Registrants should give details about such a claim on page 6 and request SSS Form 118, the "Dependency Questionnaire."* Supporting documentation is required.

Series V is concerned with occupational deferments, Classification II-A.** The regulations authorize the deferment of men "whose employment in industry, or other occupation or employment . . . or whose activity in research, or medical, scientific, or other endeavors is found to be necessary to the maintenance of the national health, safety or interest." The basic rules governing II-A deferments are three:

1. The registrant is (except for temporary interruptions) engaged in a vital activity;
2. The registrant cannot be replaced because of a shortage of persons with his qualifications or skills;
3. The registrant's induction would cause a "material loss of effectiveness in such activity."

A list of approved apprentice training programs is available from the State Director's office where the registrant's home board is located or where he is in training. Approved programs differ from state to state.

II-A deferments are given for one year, but can be removed at any time. They are renewable, and can be applied for, on the registrant's behalf, by his employer. The registrant should, in any case, attach to Form 100 a statement from his employer supporting his request for a II-A deferment. Such a statement would indicate that the work the registrant does is necessary to the "national health, safety, or interest," and that the registrant could not be replaced without detriment to such work.

Series VI is concerned with II-C deferment, for agricultural occupations. The basic rules for determining whether a registrant is eligible for II-C deferment are the same as those for II-A deferment. In addition, the registrant has to be employed "in the production for market of a substantial quantity of . . . agricultural commodities." II-C deferments are given for a year or less, and are renewable.

*For details request CCCO's memo on Filling Out SSS Form 118.

**For current policies request CCCO's memo on Occupational Deferments.

Series VII is concerned with the IV-D classification. Ministers who are exempt from service, are placed into this category. Question No. 1 gives the registrant the opportunity to establish that preaching or other ministerial work is his "regular and customary" vocation. In practice, 100 hours per month is the minimum.

With respect to Question No. 2, ordination is not sufficient nor is it necessary grounds for exemption, though it is weighty evidence.

Divinity school students or pre-theological students can also qualify for this exemption. The former, about whom Question No. 3 is concerned, must be enrolled for full-time study in a seminary or divinity school under the direction of a church or religious organization. A pre-theological student (with whom Question No. 4 is concerned) must be pre-enrolled in a seminary or divinity school.

A student should file with Form 100 evidence from his school and church supporting his claim. (For further information see the NSBRO memo on deferments for ministers and ministerial students.)

Series VIII on page 4 entitled, "Conscientious Objection to Participation in War in Any Form" provides the registrant with the first opportunity to indicate officially that he is a CO. It reads:

"I claim to be a conscientious objector by reason of my religious training and belief and therefore request the local board to furnish me a Special Form for Conscientious Objector (SSS Form 150)."

Selective Service regards CO claims made after the Form has been filed as "late" claims. Local boards will often ask an applicant for conscientious objector status why he did not make a "timely" claim, and tend to be suspicious of claims filed when termination of deferment is imminent. There is a direct correlation between the early filing of Form 150 and the likelihood of recognition when one's claim comes up for consideration. One who does not sign Series VIII is in effect telling the board that he is *not* a conscientious objector. This of course does not mean he cannot become one and apply later.

Series IX concerns the student, II-S, deferment. A registrant who is not a student when he fills out Form 100, but who plans to enroll in the next semester, should be sure to fill out Question No. 3b: "I will be a full time student next semester at . . ." Attach a letter of acceptance and a photocopy of the receipt of any deposit made. For details request the CCCO memo on student deferments.

Series X must be filled out by all aliens. An alien who has been admitted for permanent residence is eligible for the draft under the same conditions as a citizen (but see information on Series II).

Aliens required to register, but not admitted for permanent residence, must do so within six months, and will be classified IV-C for one year. The "supplemental statement" asked for in Series IX is used to compute whether or not an alien has accumulated one year's residency.

After having resided in the country for one year, an alien with this status becomes eligible for induction. He is, however, eligible for deferments like any other registrant. He can also, any time prior to induction, file SSS Form 130, "Application by Alien for Relief from Train-

ing and Service in the Armed Forces." He will then be placed in Class IV-C, but he will also permanently lose the right to become an American citizen.

Series XI concerns classifications I-Y and IV-F. A registrant who for physical, mental or moral reasons is not qualified for service will be placed in category IV-F. A registrant who would be qualified for service "only in a time of war or national emergency" will be placed in category I-Y. The local board initially places in IV-F only men with "obvious" physical or mental defects; otherwise registrants are placed in IV-F or I-Y upon recommendation of the board's medical advisor, or on the basis of pre-induction examinations conducted by the Department of Defense.

A registrant with any physical or mental condition (or conditions) that he feels disqualifies him from military service should describe his condition fully. He should also attach a statement from his doctor giving details of the registrant's condition and indicating how it might prevent him from functioning in the armed forces.

Series XII is also related to classification IV-F and I-Y. A registrant who has been convicted of a felony—a crime punishable by death or by imprisonment for more than one year—will usually be classified as IV-F. A registrant convicted of frequent and recent minor offenses may also be classified as IV-F or I-Y.

A registrant awaiting trial for more than a minor traffic violation or appealing conviction, will usually be placed in Class I-Y, as will one with a temporary physical disqualification, such as a broken arm. If the registrant is awaiting trial, is on bail with a case on appeal, is on probation or parole, he should give full details. A criminal record or impending prosecution does not give one a *right* to be deferred, however.

Series XIII concerns the provision made in the law that a sole surviving son is entitled (except in time of national emergency) to exemption in Class IV-A. If the registrant is such a sole surviving son he should check the box for "am" in Series XIII and give the relevant family history on page 6.

The regulations [Sec. 1622.40 (10)] explain that a sole surviving son is "a registrant who is the sole surviving son of a family of which the father or one or more sons or daughters were killed in action or died in the line of duty while serving in the Armed Forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service."

In general, a registrant should be sure to give full details in answer to all questions. And he should attach supporting evidence or statements whenever he thinks the local board might find these useful in determining his proper classification.

Doctors and other allied medical specialists also are given a supplemental questionnaire, "Initial Data for Classification and Commissioning in Medical Services for Medical, Dental and Veterinary Groups" Form DD 390). The last question (Series 32) of this form reads "I am () am not () nor have I been a conscientious objector . . ." It is *not* compulsory to fill out this form.

Adding Material to File at Later Date—

The regulations provide that additional material may be presented by the registrant, in writing at the time of a hearing before the local board [Sec. 1624.2 (b)(1)] and additional material can be attached to the appeal when an appeal is taken. (Sec. 1626.12) A registrant can send additional material to his local board at any time.

Notice of Classification—

As a result of completing and returning SSS Form 100 a registrant receives his first classification, although this may be delayed if the local board seeks additional information. If one has signed Series VIII he should be sent the SSS Form 150; if he indicates possible eligibility for a III-A hardship to dependents deferment, he should be sent SSS Form 118.

In any event, in due course each registrant is sent a Notice of Classification (SSS Form 110), which he is required to "have in his possession at all times, in addition to his Registration Certificate . . ." (Sec. 1623.5) Men classified I-O or I-A-O are also listed on a "Register of Conscientious Objectors" kept by the local board. (Sec. 1623.8)

"No classification is permanent," (Sec. 1625.1) and it may be reopened on the request of the registrant or at the initiative of the Selective Service System. However, ". . . the classification of a registrant shall not be reopened after the local board has mailed to such registrant an Order to Report for Induction (SSS Form 252) or an Order to Report for Civilian Work (SSS Form 153), unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control." (Sec. 1625.2)

Which Classification Should be Accepted?—

Many men qualify for, or consider themselves qualified for, more than one classification. Local boards are obliged to place such a man in the lowest classification for which he is qualified, in accordance with the list of classifications on page xx (Sec. 1623.2). If he receives a higher classification (such as I-O rather than II-S) it should be rejected unless for special personal reasons the registrant has a preference for the classification given.

Government Appeal Agent—

If a man is classified I-A, it will be accompanied by an "Advice of Right to Personal Appearance and Appeal" which actually is an offer to set up a meeting with the board's "Government Appeal Agent or his representative" (SSS Form 217). It is recommended that the offer be accepted. The Appeal Agent has the power to appeal a local board decision, or to request that the local board reopen and reconsider the classification.

If you can convince him that you qualify for the classification you seek, he may favorably influence your local board. He may be knowledgeable and give good advice. On the other hand, if he reveals

ignorance of the law, expresses hostility, or gives misleading, confusing or erroneous advice, it may in the long run prove advantageous—especially if one ends up in court.

Nothing in the regulations prevents a man from taking along a witness or an attorney. Since neither is ordinarily expected, it might be best to make arrangements in advance.

Write up a detailed factual report of any such interview for inclusion in your local board file, and keep at least one copy.

Hearing Before Local Board

If the registrant is classified in any class higher than the one he requests he must also take more formal action. Important, although optional, is the local board hearing. Each registrant has a right to appear in person before the "... member or members of the local board designated for the purpose if he files a written request therefor within 30 days after the local board has mailed a Notice of Classification (SSS Form 110) to him. Such 30-day period may not be extended." [Sec. 1624.1 (a)] Nonetheless, vigorous late requests have been granted.

If you are a substantial distance from your local board and a personal appearance would involve severe hardship, request a "courtesy transfer" to a board near you. Such requests are seldom granted, however, so one should be prepared to travel to his own board if at all possible.

"No person other than a registrant shall have the right to appear in person before the local board, but the local board may, in its discretion, permit any person to appear before it with or on behalf of a registrant ... no registrant may be represented before the local board by anyone acting as attorney or legal counsel." [Sec. 1624.1 (b)] If you have an attorney and wish to challenge this exclusion, request permission that he be permitted to accompany you.

At a hearing before a local board, "the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing, or, if oral, shall be summarized in writing by the registrant ... The information shall be as concise as possible under the circumstances" [Sec. 1624.2 (b)]

Take a Witness— CCCO recommends the registrant make written request for a hearing and take at least one witness. If the board refuses to hear the witness, this fact will tend to show an arbitrary attitude on the part of the board if the validity of the classification eventually is tested in court. Judges have acquitted for this reason.

If possible, the witness should ordinarily be someone other than a relative. Since generally the board cannot be expected to hear more than

one witness, the witness should be selected carefully. A teacher, minister, employer, neighbor, or family doctor, depending upon the classification being sought, may be the best witness. For COs long acquaintance is good but not absolutely necessary. It is necessary that the witness be well acquainted with the registrant's character and beliefs.

The witness should first identify himself for the board by giving his name, address, occupation and any other relevant material. He should then explain his relationship to the registrant and tell how he happens to be familiar with the registrant's position.

The CO's witness should make it clear that his opinions have not unduly influenced the registrant. It is helpful to point out any differences in outlook. For most boards a nonpacifist makes the best witness.

Facts are the primary concern of any witness, and he should give the board as many as possible. He should point out those things which the registrant may have forgotten or been too modest to mention. He can tell how the CO's position is related to his daily life and give as many specific examples as possible of activities which he feels support the registrant's sincerity and depth of conviction. It is important to mention church and peace organization activities when applicable. To point out the registrant's willingness to do noncombatant military duty or civilian work, whichever the case may be, is also helpful.

Recommended—

J. B. Tietz, a Los Angeles lawyer who probably has given legal assistance to more conscientious objectors than any other private practitioner, urges men to take along notes of the points they wish to make at personal appearances, and says a registrant should refresh his memory by examining his Selective Service file beforehand.

Immediately after leaving the hearing (a) write out a *dialogue* recital of everything that occurred; (b) have the witness write out what he said, or if he were not allowed to speak, would have said if permission to appear had been given; (c) file copies of (a) and (b) with the local board. Keep four copies.

Requesting this hearing is optional; the registrant, if he so desires, may appeal directly, eliminating this step. But under the 1967 law this is perhaps the most important part of the appeal procedure. The board may reverse itself in his favor; the registrant has the chance to get added material into his file; his induction is stayed pending a new classification notice; and he retains the same right of appeal as before. Also, many court victories have been won because of errors made by draft board clerks or members in connection with this hearing.

Reclassification—

Following the hearing, the local board considers the new information and decides either to reopen the classification and reclassify the registrant or not to reopen the classification. In either case a new Notice of Classification is mailed to the registrant, who may then appeal (see below), if he so desires. Meantime, he cannot be inducted. (Sec. 1624.3)

III. Appeals

Who Should Appeal— After a Notice of Classification has been received following a board hearing, or after the original Notice of Classification has been received in the event that a request for a local board hearing is not filed, the registrant has the *right* of appeal. Each registrant should appeal any classification higher than the one he thinks he should have received, considering V-A as the lowest. (See Table, pages 16-17 above.)

Time Limit on Appeal— Such appeal *must be made in writing within thirty days* after the date upon which the Notice of Classification was mailed.* The right to appeal expires after this time limit, but sometimes, at the option of the local board, a later appeal will be permitted: "At any time prior to the date the local board mails to the registrant an Order to Report for Induction, the local board *may* permit [the registrant] to appeal even though the period for taking an appeal has elapsed, if it is satisfied that the failure of such person to appeal within such period was due to a lack of understanding of the right to appeal or to some cause beyond the control of such person." [Sec. 1626.2 (d)] (*Our emphasis.*)

An appeal is sent to the local board. It need not take any special form. It can be a simple letter, stating that the registrant hereby appeals for classification - - -. As with other communications with the local board, such letters should always be sent registered or certified mail, return receipt requested, as a protection for the registrant. "... a statement specifying the matters in which [the registrant] believes the local board erred," and "... any information which was offered to the local board and which the local board failed or refused to include in the registrant's file," may be attached to the appeal. (Sec. 1626.12)

The registrant cannot be inducted while an appeal is pending. An induction order issued before or while an appeal is pending shall be cancelled by the local board. (Sec. 1626.41)

The Government Appeal Agent attached to each local board can appeal any classification within thirty days or at any time before an Order to Report for Induction is mailed. [Sec. 1626.2 (b)] An appeal can also be taken on behalf of a registrant, within the regular time limits, by a person claiming to be a dependent of the registrant, or by an employer who, prior to the classification, has filed a written request for the registrant's occupational deferment.

Appeal Board Procedure— After a registrant has appealed, his file is forwarded to the appeal board, which follows the same pattern as the local board in placing the registrant in the lowest class for which he is considered eligible. If a

*Within 60 days if registrant is located in any country other than USA, Puerto Rico, the Virgin Islands, Guam, the Canal Zone, Canada, Cuba or Mexico. [Sec. 1626.2 (c)]

he has been given a I-A-O or I-O classification by his local board and this is satisfactory to the registrant as pertains to his CO position, but he appeals for a deferment, the appeal board handles the case like those which do not involve conscientious objection status.

State Appeal Boards make their decisions solely on the basis of the information in registrants' files. No one is permitted to appear before his State Appeal Board.

Notice of the decision of the appeal board will be given the registrant by the local board which will mail him another Notice of Classification on which will be noted the vote of the appeal board.*

Reconsideration of Appeal—

The Director of Selective Service, or a State Director, may order an appeal board to reconsider its determination of any case, if they "... deem it to be in the national interest or necessary to avoid an injustice;" and the government appeal agent may file a recommendation to the State Director requesting that such reconsideration be given. (Sec. 1626.61)

PRESIDENTIAL APPEAL

An appeal to the President** may be taken *only* under the following conditions:

(1) The registrant himself can appeal only when at least one member of the appeal board dissents from the classification given. In such an eventuality, the appeal should be sent by registered or certified mail, return receipt requested, *to the local board*, (Sec. 1627.4) within thirty days of the date that a Notice of Classification reporting the appeal board's decision was mailed to the registrant. (Sec. 1627.3)

There is no special form for such an appeal. The letter should clearly state that the registrant wishes the President to review the determination of the appeal board. It should include a brief statement of why the classification given cannot be accepted and a concise restatement of the registrant's qualifications for the desired lower classification.

(2) If the decision of the appeal board was unanimous, the registrant himself cannot appeal, but even in such circumstances an appeal can be taken by the State or National Director of Selective Service. They may take such appeal at any time if it is "in the national interest or necessary to avoid an injustice." (Sec. 1627.1) It is not uncommon to get the State or National Director of Selective Service to take such an appeal, when one can persuade them that substantial injustice may result if the registrant is ordered for induction. Speed is essential, because induction is *not* necessarily postponed while they are considering whether or not to take an appeal.

* Local boards usually note the vote of the appeal board on the Classification Notice. Technically, the board does not have to note the vote unless "one or more members of the appeal board dissented from the classification." [Sec. 1626.31 (a)]

** Appeals to "the President" are heard and decided by a three-man civilian National Selective Service Appeal Board. This board is independent of the Director of Selective Service. (Sec. 1604.6)

Procedure to Follow— One's request for intervention should be made to the State Director, with a copy to the National Director. (If turned down, appeal to the National Director.) The object is to convince him a reasonable doubt exists as to whether the State Appeal Board decision should be permitted to stand. If convinced, the State Director will call in the registrant's file before reaching a decision. While he has the file, an induction order cannot be issued.

There is one other possibility to give serious consideration. The Government Appeal Agent attached to one's local board, anytime before an induction order is issued, can "file a recommendation that the State Director of Selective Service either request the appeal board to reconsider its determination or appeal to the President." (Sec. 1626.61) Unless one knows his Appeal Agent is completely unsympathetic, this avenue for further consideration of one's claim should be explored.

The following steps are suggested:

- (1) The registrant should go to his local board, or authorize someone to do so, to examine his file. Compile an accurate, concise, chronological record of your entire Selective Service history; include Selective Service number, local board name and address, dates of registration, of all classification, etc.* Note any votes which were not unanimous.
- (2) Point out again your strong points, and explain once more any point which seems to have cast doubt on your integrity, or necessary qualifications. If you are conscientiously obligated to refuse induction say so.
- (3) Specifically request that the State Director call in your file for examination, to support your belief that an injustice has been done. If an induction order has already been issued, or even if you have already refused induction, ask that it be cancelled or postponed. Request that he either a) return your file to the State Appeal Board for reconsideration or b) make a presidential appeal on your behalf.
- (4) Obtain from your strongest reference a letter to accompany your own, stating that you are a person of integrity and that an injustice will be done if the State Director does not intervene.
- (5) Copies of these letters and accompanying material should be sent to the local board, and to the National Director. A final copy should be retained or turned over to your counselor.

Since reversals by the National Selective Service Appeal Board are rare, it is wise to consider consulting an attorney at this time. It might well be advantageous for an attorney to check the registrant's file to determine what material might be added to strengthen his position in court.

*"Information contained in records in a registrant's file may be disclosed or furnished to, or examined by, the following person, namely: (1) The registrant, or any person having written authority signed by the registrant . . ."
[Sec. 1606.32 (a)]

After a registrant has taken a presidential appeal, or after the State or National Director has appealed on behalf of the registrant to the President, the registrant cannot be inducted. An induction order issued before or while a presidential appeal is pending shall be cancelled by the local board. (Sec. 1627.8) However, induction is *not* postponed while the registrant is attempting to get the State or National Director to take a presidential appeal, unless one of those officials has so ordered. If a presidential appeal is taken on behalf of the registrant, the local board shall notify the registrant. (Sec. 1627.5)

Following a presidential appeal, a new Notice of Classification will be mailed to the registrant by the local board. (Sec. 1627.7)

IV. Physical Examination

Registrants are ordered to report for the physical examination in the order of their liability for service, except that volunteers are examined in advance of nonvolunteers. The board may also send an order to report for a physical "... to any registrant who is classified in a class other than Class I-A, Class I-A-O, or Class I-O if it determines that his induction may shortly occur." [Sec. 1628.11 (c)]

"Every registrant, before he is ordered to report for induction, or ordered to perform civilian work ... shall be given an armed forces physical examination ... except that a registrant who is delinquent ... may be ordered to report for induction without being given an armed forces physical examination." (Sec. 1628.10)

Under certain circumstances, a registrant believed to have "obvious defects or manifest conditions" as enumerated by the Surgeon General of the Army in AR 40-501* may be summoned for a medical interview by the local board before, and possibly in place of, the armed forces physical examination. (Sec. 1628.1 ff)

When a registrant in Class I-A, I-A-O, or I-O claims one or more disqualifying defect, his local board "shall order him to present himself for an interview with the medical advisor," using SSS Form 219. [1628.2 (b)]

One who feels he should be classified I-Y or IV-F will need convincing letters and supporting documentation from appropriate civilian medical and psychiatric doctors. This evidence should be taken along to the pre-induction examination.

Failure to report for the physical examination is a violation of the law, except for men classified I-O. A registrant with a I-O classification who does not report for the physical examination shall be considered by his draft board as acceptable for civilian work.

The physical examination is for the protection of the registrant and the government. Men who do not pass the physical will not be assigned to civilian work or inducted into the armed forces. I-Os are given the same physical examination at the same time, and place as I-As and I-A-Os.

Registrants are ordered to report for examination "... without regard to whether the registrants have requested or will request a personal appearance before the local board and without regard to whether an appeal has been or will be taken." [Sec. 1628.11 (b)]

A registrant in Class I-O who has not had a physical examination within one year, and who believes he would not pass the physical, should request re-examination or a special medical interview. This step is advised even though Selective Service takes the position that a I-O registrant can be ordered to civilian work whether or not he has had a physical examination within one year.

*Available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 (\$1.60 with amendments)

Men classified I-A-O or I-A will be reexamined in conjunction with but prior to induction if one year has passed since their previous examination.

A registrant ordered to report for an armed forces physical examination, or a medical interview "... who is so far from his own local board that reporting to his own local board would be a hardship," should take his order to the local board having jurisdiction over the area in which he is then located, and have his interview or examination transferred to that board. (Sec. 1628.5 and 1628.14)

ARMED FORCES SECURITY QUESTIONNAIRE

Every Selective Service registrant ordered to a preinduction physical examination, or ordered to report for induction, is expected to complete the Armed Forces Security Questionnaire* as part of the required examination. However, there are many individuals who conscientiously refuse to complete the security questionnaire, believing it an unwarranted invasion by government of the inalienable right of the individual to freedom of association and belief.

The Armed Forces Security Questionnaire (DD Form 98) is a Department of Defense form which lists approximately 275 names of organizations, groups, and movements reported by the Attorney General of the United States as "having significance in connection with the national security." The registrant is asked to answer a series of questions relating to any past or present connection with any of the listed organizations.

While a man classified I-O at the time he reports for a preinduction physical examination is exempted from filling out the security questionnaire by Army Regulation 601-270 paragraph 40f (2), those with other classifications will be pressed to complete it. The questionnaire is handed to the registrant at the examining station. The procedure is routine and the implication seems to be that one answers the question of participation in any of the listed organizations with a "no." Very little time is allowed in which to complete and sign the form.

Refusal to Complete the Questionnaire—

An individual who refuses to answer the security questionnaire, or who fails to complete any of the questions, will be asked to talk with the officer and be questioned as to his reasons. He then will be asked to fill out a Statement of Personal History (Form DD 398) which asks for complete information about educational and family background, travel in foreign countries, relatives abroad, previous employment and residences, "past and/or present membership in organizations," and questions relating to loyalty, possible criminal record, and fitness for duties required in the armed forces. Anyone objecting to loyalty questions in the first questionnaire likely will object to this one.

*Detailed memo, Armed Forces Security Questionnaire is available from CCCO. Single copies 5¢.

A registrant who does not complete the security questionnaire to the satisfaction of the military authorities will not be inducted into the armed forces pending completion of a thorough investigation. His draft board will be notified that "induction is held in abeyance, not presently acceptable for induction."

Military Intelligence will conduct further investigation as to the person's loyalty. The investigation may consume a few months to a year or more. The inductee may be asked to come back for further questioning. He is not required by law to do so, nor to answer any questions if he does not wish to. After the investigation is completed to the satisfaction of the military, the induction center will notify the draft board. If the armed forces are satisfied by the investigation that he is not a "security risk," and he has passed the physical examination, he will be certified as acceptable and the draft board will send him a Statement of Acceptability (DD Form 62). If the armed forces are not satisfied as to his loyalty, he will be classified IV-F, not qualified for any military duty.

MISCELLANEOUS PROCEDURAL INFORMATION

Obvious Errors—

Selective Service boards sometimes act in error and in flagrant disregard of the regulations. Among the most common mistakes of this kind are: (a) classifying a registrant I-A who has signed Series VIII as a CO, without ever having sent him the special form for COs; (b) failing to reopen a classification upon receipt of information which establishes a prima facie case for a lower classification, (c) failure to grant a personal appearance which has been properly requested; (d) ordering a registrant for induction while an appeal is pending.

Usually, such errors result from oversight or carelessness, and can be corrected when the board's attention is drawn to the specific regulations which have been violated. If the local board does not correct the error promptly, enter an appeal and ask the State Director to intercede (see below).

Failure of Selective Service to correct obvious procedural errors gives the registrant a good chance of winning his case in court.

State and National Directors—

As noted at various points above, the State and National Directors of Selective Service have wide powers to act "... in the national interest or ... to avoid an injustice." They can order local boards to correct procedural errors; they can order any classification reopened at any time; they can order an appeal board to reconsider a decision it has made; they can cancel an order for induction; they can take an appeal to the President. When asking the State or National Director to intervene in other situations, be sure to emphasize the reason for requesting their action; namely to correct a local board action made in violation of the regulations, or to avoid an injustice. Always include a concise, chronological history of your Selective Service record, and explain exactly what it is that they are requested to do, and why.

SELECTIVE SERVICE SYSTEM SPECIAL FORM FOR CONSCIENTIOUS OBJECTOR

☐ DATE QUESTIONNAIRE RECEIVED AT LOCAL BOARD

Date of Mailing.....

Complete and return within 30 days.

(Local Board Stamp)

1. Name of Registrant (First) (Middle) (Last)

2. Selective Service No.

Mailing address (Number and street, city, county and State, and ZIP Code)

(The above items, except the date received back at local board, are to be filled in by the local board before the questionnaire is mailed.)

INSTRUCTIONS

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form which, when filed, shall become a part of his Classification Questionnaire (DD Form 100).

Section 6(j) of the Military Selective Service Act of 1967 provides: "Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the Armed Forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. As used in this subsection, the term 'religious training and belief' does not include essentially political, sociological, or philosophical views, or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the Armed Forces under this title, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the local board pursuant to Presidential regulations may deem appropriate and any such person who knowingly fails or neglects to obey any such order from his local board shall be deemed, for the purposes of section 12 of this title, to have knowingly failed or neglected to perform a duty required of him under this title."

Series I.—CLAIM FOR EXEMPTION

INSTRUCTIONS.—The registrant should sign his name to either statement A or B in this section. If he cannot sign either one, he must indicate why.

A I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form. I, therefore, claim exemption from combatant training and service in the Armed Forces, but am prepared to serve in a noncombatant capacity if called. (Registrants granted this status are classified I-A-O.)

(Signature of registrant)

B I am, by reason of my religious training and belief, conscientiously opposed to participation in war in any form and I am further conscientiously opposed to participation in noncombatant training and service in the Armed Forces. I, therefore, claim exemption from both combatant and noncombatant training and service in the Armed Forces, but am prepared to perform civilian alternative service if called. (Registrants granted this status are classified I-O.)

(Signature of registrant)

Series II.—RELIGIOUS TRAINING AND BELIEF

INSTRUCTIONS.—If more space is needed use extra sheets of paper.

1. Describe the nature of your belief which is the basis of your claim and state why you consider it to be based on religious training and belief.

2. Explain how, when and from whom or from what source you received the religious training and acquired the religious belief which is the basis of your claim. (Include here, where applicable, such information as religion of parents and other members of family; childhood religious training; religious and general education; experiences at school and college; organizational memberships and affiliations; books and other readings which influenced you; association with clergymen, teachers, advisers or other individuals which affected you; and any other material which will help give the local board the fullest possible picture of how your beliefs developed.)

3. To what extent does your religious training and belief restrict you from ministering to the sick and injured, either civilian or military, or from serving in the Armed Forces as a noncombatant without weapons?

4. Have you ever given expression publicly or privately, written or oral, to the views herein expressed as the basis for your claim? Give examples.

Series III.—REFERENCES

You may provide your local board with any additional evidence from any source that would support your claim of conscientious objection. You may, if you choose, provide in the space below the names of references who could provide the local board with information regarding your religious training and belief. You may wish to suggest that these references, if given, write directly to the local board in support of your claim.

NAME	FULL ADDRESS	OCCUPATION OR POSITION	RELATIONSHIP TO YOU

REGISTRANT'S CERTIFICATE

INSTRUCTIONS.—Every registrant claiming to be a conscientious objector shall make this certificate.

NOTICE.—Imprisonment for not more than 5 years or a fine of not more than \$10,000, or both fine and imprisonment, is provided by law as a penalty for knowingly making or being a party to the making of any false statement or certificate regarding or bearing upon a classification. (Military Selective Service Act of 1967.)

I, _____, certify that I am the registrant named and described in the foregoing statements in this form; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing _____ are, and are made, in my own handwriting.

Registrant sign here 

(Signature or mark of registrant)

(Signature of witness to mark of registrant)

(Date)

(Date)

If another person has assisted the registrant in completing this form, such person shall sign the following statement:

I have assisted the registrant herein named in completing this form.

(Signature of person who has assisted)

(Occupation of person who has assisted)

(Address of person who has assisted)

(Date)

PART 2

Conscientious Objection

1. Conscientious Objector Provisions

The Military Selective Service Act of 1967, like its predecessor, provides for conscientious objectors who qualify to substitute civilian work for participation in the military, or to serve in the military without handling weapons. The provision appears on the first page of preceding reproduction of the revised Form No. 150, which in the fall of 1968 replaced the earlier version.

To qualify for either I-A-O or I-O one must object to participation in war "by reason of religious training and belief" rather than by reason of "essentially political, sociological, or philosophical views or a merely personal moral code."

Request for Conscientious Objector Status—

Persons who file their Classification Questionnaires without claiming conscientious objection may request the special CO form at any date.* If CO claim is made before an induction order is issued the local board will reopen classification and consider the registrant's claim. If the board refuses the desired CO classification the registrant has the right of appeal. However, if a CO claim is made after an induction order has been issued, the local board in all probability will refuse to reopen classification.** Nevertheless, the CO form should be filled out and returned, accompanied by a letter requesting that the board reopen the registrant's classification to consider his conscientious objection and grant him a personal hearing. If the board refuses to reopen the classification or grant the hearing, he

*"The local board, upon request, shall furnish to any person claiming to be a conscientious objector a copy of such Special Form for Conscientious Objector . . ." (Sec. 1621.11) Sample copies of Form 150 are available from CCCO upon request.

**". . . the classification of a registrant shall not be reopened after the local board has mailed to such registrant an Order to Report for Induction . . . unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant has no control." (Sec. 1625.2) Available from CCCO: Post-Induction Claim Memo.

should immediately appeal the refusal by filing a written appeal with his local board and sending a copy thereof to his State Director. This course of action may preserve a legal defense for refusing to submit to induction.*** *No matter how late it may be, never fail to request and file the special CO form.*

Late claims naturally will be more difficult to establish; the board will want to know "what suddenly made you change your mind?"

Special Form for Conscientious Objectors—

This special form (SSS Form No. 150) will be mailed to all registrants

who sign Series VIII of the Classification Questionnaire and to those who make a later request for it. If it is not received and the registrant is classified without having been given the opportunity to file it, he should immediately point out this error to the local board and demand that the special form be sent him and he be classified again. Form 150 should be completed and returned within thirty days of the date it was mailed to the registrant, although filing the form late does not invalidate the request (note paragraph before). Failure to return the form is not a violation of the law, but may be regarded as a waiver of the registrant's CO claim.

It is on the basis of the answers to Form 150, and the material attached to it, that the local board will decide whether or not to recognize a registrant's CO claim. In some cases, the board may call the CO before it, and it has the power to subpoena any person to appear before it and require him to testify under oath. (Sec. 1621.15). The board usually classifies the registrant solely on the basis of the written forms, but some COs are called in for interviews. The questions on the form are provocative and difficult to answer, and the registrant should have thought out his answers in advance, and should have collected the material which he will want to send in. In answering the questions, not enough space is provided on the form and extra sheets should be used which, together with other supporting material, should be securely attached to the form. *Keep copies of answers and of all material submitted with the form.*

The revised Special Form for Conscientious Objectors, dated August 30, 1968, is divided into three series.

CLAIM FOR EXEMPTION

In Series I, the registrant must sign one of two statements. Statement A is an application for I-A-O classification, and, if granted, the registrant may be ordered to duty as a noncombatant in the armed

*** (Courts disagree as to the registrant's rights under these circumstances.) *U.S. v. Underwood*, 151 F. Supp. 874 expressly recognizes this right as does the more recent *U.S. v. Gearey* 368 F.2d 144 (2nd Cir. 1966). Other courts, disregarding the mandate of the Act, find no such right, relying on the language of Regulation 1625.2 cited above. See *Keene v. U.S.*, 266 F. 2d 378.

forces. Statement B is an application for I-O classification, opposed to both noncombatant and combatant service; and, if granted, the registrant may be assigned to civilian service. (The board will not necessarily respect these claims; frequently, it will "bargain" by classifying I-A-O where I-O was requested.)

If one is considering applying for I-A-O status, or is in doubt as to which position best meets his conscientious needs, he should read Part 4 of this *Handbook*, and then turn to the brief discussion of Question 3 on page 41.

II. Religious Training and Belief

The 1948-66 versions of the draft law defined religious training and belief as "a belief in a Supreme Being involving duties superior to those arising from any human relation." This is commonly referred to as the "Supreme Being clause" and was inserted in 1948 in an effort to narrow the provision. It was deleted in 1967, and the two questions on the No. 150 which sprang from it were removed about fifteen months later.

Series II, titled Religious Training and Belief, is made up of four questions. The following discussion is intended to show the great variety of attitudes and beliefs which can rightly be considered religious, to help in answering the first question: *Describe the nature of your belief which is the basis of your claim and state why you consider it to be based on religious training and belief.*

"Religion" has been variously defined. Here are some definitions which may be helpful to men seeking to make their own positions clear.

The Shorter Oxford English Dictionary defines religion as "devotion to some principle; strict fidelity or faithfulness; plus affection or attachment."

The New International Encyclopedia divides definitions of religion into two classes: "The first class defines religion as an attitude of conduct and life, directed toward a power without . . . (The second class) regards religion as experience without regard to the object towards which it is directed."

It has generally been held that religion of the subjective type (that is, religion as inner experience rather than as outward devotion) may be judged objectively by standards of conduct.

Benjamin Franklin said: "Vital religion has always suffered when orthodoxy is more highly regarded than virtue; and the Scriptures assure me that at the last day we shall not be examined on what we *thought*, but by what we did."

Great religious leaders have often defined religion in terms of inner feeling and right conduct, rather than of membership in an organization or conformity to its rules. Jesus said: "The Kingdom of God is within you," and James wrote (James 1:27) that "pure religion and undefiled before God and the Father is this, to visit the fatherless and widows in their affliction, and to keep himself unspotted from the world." The views of Hillel, the great Jewish scholar and rabbi, and contemporary of Jesus, are summarized in the Jewish Encyclopedia thus: "Love of man was considered by Hillel as the kernel of the entire Jewish teaching. When a heathen who wished to become a Jew asked him for a summary of the Jewish religion in the most concise terms, Hillel said, 'What is hateful to thee, do not to thy fellow man: This is the whole law; the rest is mere commentary.'"

Immanuel Kant defined religion as that ". . . which in instructing us animates us with basic principles for action, and wholly subjects

whatever Scripture may contain for historical faith to the rules and incentives of pure moral faith, which alone constitutes the element of genuine religion in each ecclesiastical faith." According to Auguste Comte, often called the father of sociology, "religion . . . finds its actual expression in the active service of humanity." John Stuart Mill held that "the essence of religion . . . is the sense of unity with mankind." John Dewey wrote: "It is widely supposed that a person who does not accept any religion is thereby shown to be a non-religious person . . . The adjective 'religious' denotes nothing in the way of specifiable entity either institutional or as a system of beliefs." He specifies that "any activity pursued in behalf of an ideal and against an obstacle, and in spite of threats of personal loss because of conviction of its general and enduring value is religious in quality." One of the finest of all philosophers' statements on religion is that of Whitehead in *Science and the Modern World*: "Religion is the version of something which stands beyond, behind and within the passing flux of immediate things; something which is real, and yet waiting to be realized; something which is a remote possibility, and yet the greatest of present facts; something which is the ultimate ideal, and the hopeless quest."

Scientists have also contributed their share to this understanding of religion in terms of inner conviction expressing itself in the moral life. Albert Einstein spoke of a stage of religious experiences which he called cosmic religious feeling: "The religious genuises of all ages have been distinguished by this kind of religious feeling, which knows no dogma and no God conceived in man's image; so there can be no church whose central teachings are based on it. Hence it is precisely among the heretics of every age that we find men who were filled with the highest kind of religious feeling, and were in many cases regarded by their contemporaries as atheists, sometimes also as saints." Sir Arthur Eddington said: "Rejection of creed is not inconsistent with being possessed by a living belief. We have no creed in science, but we are not lukewarm in our beliefs . . . in religion we are repelled by that confident theological doctrine which has settled for all generations just how the spiritual world is worked; but we need not turn aside from the measure of light that comes into our experience showing us a Way through the unseen world."

CONTEMPORARY DEFINITIONS

"Religious training and belief" should be thought of as a single concept. In hearing an appeal from Fredrik P. Nissen, an alien CO seeking American citizenship, the U.S. District Court in Massachusetts ruled that "so far as Congress was thinking of training it regarded it as meaning no more than individual experience supporting belief; a mere background against which sincerity could be tested."*

Later, in another CO naturalization case the U.S. District Court in Minnesota held that "no attempt is made in the statute to define training and belief as separate elements. The phrase is defined in toto as a single concept, and to attempt an independent consideration of the

word training would be to ignore the apparent scheme of the statute."**

The U.S. District Court for Michigan, in acquitting Peter Horst of the charge of refusal to accept induction into the armed forces, interpreted the statutory definition of religious training and belief to mean "any belief, orthodox, or unorthodox." The court also held that Congress did not intend "that a registrant's claim of exemption—must carry with it any concept of fear of religious sanctions, such as punishment after death or excommunication from the church . . ."***

III. *U.S. v Seeger*

The nearest we have to a legal definition of "religious training and belief" is found in the Supreme Court's decision in *U.S. v. Seeger*,* even though it was the pre-1967 "Supreme Being clause" which was before the Court.

" . . . Under the 1940 Act it was necessary only to have a conviction based upon religious training and belief; we believe that is all that is required here. Within that phrase would come all sincere religious beliefs which are based upon a power or being, or upon faith, to which all else is subordinate or upon which all else is ultimately dependent. The test might be stated in these words: A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition."

The Court reiterated its position later in these words:

" . . . While the applicant's words may differ, the test is simple of application. It is essentially an objective one, namely, does the claimed belief occupy the same place in the life of the objector as an orthodox belief in God holds in the life of one clearly qualified for exemption?" " . . . In such an intensely personal area, of course, the claim of the registrant that his belief is an essential part of a religious faith must be given great weight."

The Court continued by stating " . . . we believe this construction embraces the ever-broadening understanding of the modern religious community." In recognition of the trend toward using non-traditional or unorthodox terminology to express personal beliefs, the Court referred to the following quotations:

" . . . I have written of the God above the God of theism . . . In such a state of self-affirmation the God of both religious and theological language disappears. But something remains, namely, the seriousness of that doubt in which meaning within meaninglessness is affirmed. The source of this affirmation of meaning within meaninglessness, of certitude within doubt, is not the God of traditional theism but the 'God above God,' the power of being, which works through those who have no name for it, not even the name of God." Paul Tillich, *Systematic Theology*.

" . . . But the signs are that we are reaching the point at which the whole conception of God 'out there' which has served us so well since the collapse of the three decker universe is becoming more a hindrance than a help." John A. T. Robinson, *Honest to God*.

"Ever since primordial days, numerous people have had a certain perception of that hidden power which hovers over the course of things and over the events that make up the lives of men; some have even come to know of a Supreme Being and Father. Religions

**In re Nissen*, 146 F. Supp. 361, November 20, 1956, at p. 363.

***In re Hansen*, 148 F. Supp. 187, February 8, 1957, at p. 190.

****U.S. v. Horst*, Crim. Doc. 36149 (E.D. S. Michigan), December 2, 1957, an unreported case.

**U.S. v. Seeger* (380 U.S. 163).

in an advanced culture have been able to use more refined concepts and a more developed language in their struggle for an answer to man's religious questions," from the Schema of the recent Ecumenical Council.

"Instead of positing a personal God, whose existence man can neither prove nor disprove, the ethical concept is founded on human experience. It is anthropocentric, not theocentric. Religion, for all the various definitions that have been given of it, must surely mean the devotion of man to the highest ideal that he can conceive." David Saville Muzzey, *Ethics as a Religion*.

While it is *not* necessary to express one's beliefs in traditional or orthodox religious terminology; it *is* necessary to state clearly and affirmatively the nature of one's beliefs and to communicate them as effectively as possible. Individualistic COs should take full advantage of the opportunity to qualify which the Court has given them.

The Non-Religious Objector—

A registrant who *affirmatively states* that he is non-religious or holds a *merely* personal and moral code is ineligible for classification as a CO. It should be emphasized that atheism was not at issue in the *Seeger* case for *Seeger* had left the Supreme Being question unanswered. Many others who do not affirm a belief in God hold beliefs which are religious within the broad interpretation of this decision. Registrants are advised to state affirmatively what they believe rather than what they do not.

Perhaps the removal of the Supreme Being clause, but more likely the climate of opinion created by the war in Vietnam, has made the obtaining of CO recognition more difficult. Nonetheless, there are more recognized COs now than at any time in U.S. history.

Only the man whose *sole* basis for objecting is sociological, political, philosophical or merely a personal moral code is prevented specifically from obtaining CO status.* However, he can request CO classification, file Form 150, and use the regular CO appeal procedure.

THREE MORE QUESTIONS

How, When, From Whom?—Question 2 of Series II on the Form 150 should be answered fully. It reads:

Explain how, when and from whom or from what source you received the religious training and acquired the religious belief which is the basis of your claim. Practical suggestions appear in parenthesis after the question.

If, for example, one went to Sunday School, this should be mentioned even though one is no longer active in the church, for the experience influenced you at an impressionable age. The "when" part of the question increases in importance the later one claims conscientious objection. Why do you say you are a CO now when you have had the

**Fleming v. U.S.*, 344 F. 2nd 912 (10th Cir. 1965); *Etcheverry v. U.S.*, 320 F. 2nd 873 (1964) Civil No. 65-63, JWC Memorandum Opinion.

opportunity to file a claim all along? What happened to push you "over the line" into the CO position? Trace the development of your beliefs.

If at any time you participated in voluntary or compulsory ROTC, make it clear, if it is true, that you were not a CO at that time. Do not shy away from mentioning negative experiences or activities which moved you toward becoming a CO. A number of men have ended up as COs because of taking ROTC.

WHY NOT I-A-O?

The third question asks: *To what extent does your religious training and belief restrict you from ministering to the sick and injured, either civilian or military, or from serving in the Armed Forces as a noncombatant without weapons?*

With this question, the man applying for I-A-O is being asked "Are you confident you can serve without weapons as a full member of the armed forces without violating your beliefs?" The registrant applying for I-O is being asked "Why does it violate your conscience to serve as a soldier who saves lives, rather than taking them?" Again, the description of noncombatant duties in Part 4 of this *Handbook* may prove useful.

The majority of I-Os perform their alternative service in civilian hospitals. The vast majority of the I-A-Os serve in the Army Medical Corps, with many working in military hospitals. The fact that some I-Os serve in veterans' hospitals—by choice—perhaps makes the line less sharp. What from your point of view is the difference?

Some COs would not minister to a sick or injured man in military uniform, on the basis that he would be able to resume his destructive duties that much sooner. It is perhaps more common for a I-O to be willing in principle to help anyone, but to refuse to don a military uniform himself. He cannot in conscience commit himself to obeying "all lawful orders" within a system which uses the impersonal destruction of people as a method of obtaining its objectives. The uniform, to him, represents participating approval of both the methods and the objectives.

But for the man whose sole conscientious objection is to personally taking the life of another, his answer to this question will indicate that he should probably seek, and would probably be given, the I-A-O classification.

IS IT A SECRET?

Question 4: *Have you ever given expression publicly or privately, written or oral, to the views herein expressed as the basis for your claim? Give examples.*

Introspective young objectors who have not discussed their beliefs with others will have difficulty with this question. It might be well for such men to explain why they have not expressed their beliefs, rather than answering with a simple "No."

Most COs, however, have given expression to their beliefs in bull sessions, term papers, and in discussions with friends. Others have signed petitions, marched, picketed, or written letters to editors of school or local papers. Activity with or membership in religious or peace groups are forms of expression which help to make it clear that one is not pretending to be a CO, but actually is one.

References— Series III of the No. 150 gives a place to list references, and suggests that letters from them "in support of your claim" might usefully be sent straight to your local board. Most COs will probably continue to obtain the letters and attach them to their claim, along with any other supporting documentation they may wish to submit.

Parents, ministers, teachers, who personally know the CO are valuable references, and local boards will probably pay special attention to nonpacifists. Whether sent directly to the local board or enclosed with your claim, it is extremely important to obtain letters from them, addressed to the board. Such letters should *give specific facts* as to the registrant's character, background, and opposition to war.*

If anyone assisted in the wording of the answers to the questions in the Classification Questionnaire or the Special Form for Conscientious Objectors, be certain to have him state so at the end of the questionnaire in the space provided. Failure to do so may raise a question as to the registrant's integrity.

*For Supporting Letters Memo write to CCCO.

IV. War in Any Form

For twenty years COs were asked on the No. 150 "Under what circumstances do you believe in the use of force?" The ambiguity of the term "force" obliged COs to give lengthy explanations of the difference between the force of gravity, the power of love, and the might of the military.

Local draft boards saw in the question the implication that COs ought to be thoroughgoing pacifists eschewing violence in all human relationships.

Individual Use of Force—

While there is nothing in the Law or Regulations which requires one to embrace non-violence on the personal level, local draft board members no doubt will continue to question CO claimants about what they would do in various hypothetical situations. Even if one considers the questions irrelevant, they should be answered thoughtfully. Sometimes it is good to admit that one does not see their relevance. While no one can say what he would do if someone tried to rape his grandmother, perhaps you can say what you hope you would do. Would you defend yourself or your neighbor's child if attacked? While courts have ruled that one can be willing both to participate in a theocratic war and to defend oneself in the meantime,* if one believes in self-defense as a right, he should be prepared to explain carefully why this is not inconsistent with his conscientious objection to war.

Police Force—

While it no longer arises in answering the No. 150, it is well to be prepared to explain why, if one believes in a police force, he does not accept the need for an army. Whether or not we would dispense with our domestic police force, probably we would agree that the analogy is not so perfect as the questions imply. Aldous Huxley suggests some differences:

"The force which [armies] are empowered to use is not limited. Their function is not to restrain the guilty; it is to destroy all things and people within their range. When the police wish to arrest a criminal, they do not burn up a town in which he is living and kill or torture all its inhabitants. But this precisely is what an army does, particularly an army using modern weapons.

"States arrogate to themselves the right not only to judge other states, but also, by means of their armies, to punish them. The principle is wholly repugnant to law; moreover the process of punishing a guilty nation entails the destruction of countless innocent individuals. An army with atomic and hydrogen bombs is not and cannot be a police force. Nor can its essentially evil and destructive functions be moralized by calling it a U.N. army, an instrument of collective secur-

**Taffs v. U.S.*, 208 F. 2d 329, cert. denied 347 U.S. 928; *U.S. v. Hartman*, 209 F. 2d 366; *Jessen v. U.S.*, 212 F. 2d 897; *Sicurella v. U.S.*, 348 U.S. 385

ity, etc. Police operate with the consent of the community which employs them. Armies operate at the order of one among the nations or the few nations which are allied together."

Again, there are those who disagree with the above, and consider the police to be basically an instrument of the "haves" of a given society to protect themselves and their property from the "have nots." Others see the police functioning almost solely to preserve the *status quo*, be it good or bad. But police and soldiers have also been used to impose change toward racial integration.

Need the police be armed? To what extent do policemen contribute to the level of violence in a community? When National Guardsmen are called in to quell a riot, are they functioning as police or soldiers? Would members of an armed international body under the UN be soldiers or policemen?

This is indeed an area beset with problems and uncertainties for thoughtful persons. One can take solace in the thought that most local draft boards members see less connection between a police force and an army than do a good many CO applicants. And the statement one signs is that he is "opposed to participation in war in any form," with specific reference to the armed forces.

Selective Objection— Many a young man is conscientiously opposed to participating in the military at this time because he is convinced the U.S. role in Vietnam is morally and legally indefensible. He is clear about *this* war, but not about war in general. One must go beyond opposition to a single war in order to qualify for CO status. Three brief leaflets* may be helpful to persons in this situation.

Although many young men say they are opposed only to the war in Vietnam, presumably no one is in favor of all wars except the current one. Most opponents of the Vietnam war would oppose all aggressive wars and perhaps all wars of military intervention. Under what circumstances would you be conscientiously able to participate in war? Would you defend this country if it were attacked? Even if attacked as a direct result of its foreign policies? The German and the Japanese people answered that question "yes," for the most part, nearly three decades ago. Does the U.S. military establishment give us security, or threaten our security? Or is it a mixture? Do we face a real threat of invasion or domination? By whom? What natural objectives justify the impersonal destruction of groups of fellow human beings? Each generation is presented with these questions in one form or another because every government is prepared to use war as its ultimate instrument of foreign policy. Each individual must find his own answers. When there is a draft, these answers may lead him into battle, or into civilian alternative service, or into prison, or cause him to leave the country.

*Fact Sheet on Vietnam and the Draft; So You Would Have Fought Hitler? So You Would Fight If This Country were Attacked? Single copies free from CCCO.

SUMMARY

One temptation that should be resisted is that of buttressing unduly one's views on the use of force—regarding the draft board as the antagonist, and trying to win in the way a debater wins. If the objector can clarify his reasons for rejecting war, and present them clearly, his sincerity will carry him where arguments would fail.

Ask yourself the questions you may be asked, and try to decide (1) what forms of force you are willing to use, and in what circumstances; (2) how far it is required that you separate yourself from such force as you are not willing to use personally; (3) why you make these distinctions; and (4) what, if any counter proposals you wish to make in rejecting violence. Face your draft board honestly, realizing that they are performing a duty, and that the first task is to state your beliefs as clearly as possible. Remember, your position needs no apology. Sincerity counts more than pat answers.

V. Questions Asked CO's

The conscientious objector who asks for an interview with a Government Appeal Agent or personal appearance before his local board must expect many questions. Often his questioners will be antagonistic, and the questions will be difficult and confusing.

The following questions are listed to help COs to think out their answers in advance of formal hearings. No attempt is made to answer the questions, since they can only be answered by each individual according to his conscience. However, group discussion on these questions, as well as time spent with a CO counselor, can be helpful.

No CO will be asked all of these questions, and questions will be asked which are not listed here. The type of questions a CO is asked is influenced by his answers, his background, and the classification he is seeking.

A CO should remember that the manner in which he responds to questions is often as important as his answers. There is no obligation to have detailed logical answers to all questions, especially those involving complex, theoretical problems of conduct. The important thing is to emphasize the complete rejection of participation in war by reason of religious training and belief.

SAMPLE QUESTIONS

Why didn't you become a CO until you saw your deferment running out?

What happens to people like you in Russia or China?

Should we let the Communists oppress the Vietnamese people?

Why is it wrong to prevent evil from happening to others?

Are you against all wars, or only the war in Vietnam?

Do you object to killing, or to being killed?

What method would you use to resist evil?

Aren't there a lot of Communists mixed up in so-called peace demonstrations?

Why is it wrong to defend your country's interests?

Why accept the benefits of a country you won't protect?

If a nation suffers unprovoked attack, should it not defend itself?

Do not the facts show that Communists want to rule the world?

How can you restrain a powerful army except by a more powerful army?

Why did you register for a law passed to raise an army?

Do you have any duty at all to the community?

If everyone held your view wouldn't Communists take over the country?

Have you realized that by refraining from helping our army you are in effect helping North Vietnam?

Do you object to other boys being drafted, or just yourself?

ON RELIGIOUS BELIEF

Are you a member of a church? How long have you been a member? If not a member, why not? How often do you attend?

What does your church say about war?

Why do most of the members of your church support the war?

Where in the Bible do you find anything which forbids you to help defend your country?

Why did Christ say, "He that hath no sword, let him buy one," "Render unto Caesar the things that are Caesar's . . ." and "I came not to send peace, but a sword?"

Aren't you really just expressing a personal moral code?

Does God tell you to live at the expense of other people who are risking their lives fighting for you?

If God told you to defend your country, what would you do?

How about the Christian doctrine of approval for just wars?

How do you explain all of the wars in the Old Testament?

How is it any practical help to pray for oppressed people while they are being massacred?

VI. Assignment to Civilian Work *

APPROPRIATE WORK

Work which is considered appropriate for a I-O registrant must meet the requirements of the definition in the Regulations as follows: "(1) Employment by the United States Government, or by a political subdivision thereof, or by the District of Columbia. (2) Employment by a nonprofit organization, association, or corporation which is primarily engaged either in a charitable activity conducted for the benefit of the general public or in carrying out a program for the improvement of the public health or welfare, including educational and scientific activities in support thereof, when such activity or program is not principally for the benefit of the members of such organization, association, or corporation, or for increasing the membership thereof." [Sec. 1660.1 (a)]

Private employment, other than by approved nonprofit organizations, is specifically ruled out. [Sec. 1660.1 (b)]

Although not required by either the law or the Regulation, before local boards will assign a CO the employer must ordinarily be satisfactory to the State Director of Selective Service. Employers wishing to be approved apply at the state office of Selective Service in the state where the CO will work. Employers wishing to use COs outside of the U.S. are approved by the National Director of Selective Service. Local boards have the authority to, and sometimes do, assign men to agencies which meet the definition of the law but are not on the State Director's list. Local boards are supposed to have a list of qualified employers within the state.**

Within the restrictions given here, one should seek the type of work most suitable to his skills, experience, interest and vocational goals. New employers are being found acceptable every month, to accommodate the growing number of COs.

Working Conditions—

It is Selective Service policy that COs drafted for civilian work shall work the same hours, receive the same pay and vacation, and shall otherwise be subject to the same conditions as the other employees on that job. This policy, especially as to pay, has not always been adhered to in the past.

Employers can terminate the employment of assigned COs on the same basis as regular employees. If employment is terminated before completion of 24 months service, the CO is supposed to get the same type of work with another employer. If the termination of employ-

*For further information see "Details of Compulsory Work Program for Conscientious Objectors." Copies available from CCCO.

**A list of "Civilian Work Agency List for COs" has been compiled by the National Service Board for Religious Objectors. Copies may be ordered from CCCO.

ment is not the fault of the registrant, the time lag in transferring to a new job is not considered a break in the 24 consecutive months employment. [Sec. 1660.21 (c)]

The alternative service man does not have a right to quit his job. Of those who have done so with good reason, and immediately found another, however, none has been prosecuted to CCCOs knowledge.

ASSIGNMENT TO THE JOB

Getting the assignment to a specific job follows a procedure which may take four separate steps. The process stops at whichever step results in a work order to the registrant. These steps are as follows:

(1) If the I-O registrant takes the physical examination and passes it, he will receive the regular Statement of Acceptability from his local board. Within ten days of the mailing of this notice to him he must file SSS Form 152. If he does not take the physical, he files Form 152 within ten days of the date he would have taken the examination. The Regulations (Sec. 1660.20) appear to place on the registrant the responsibility of getting his work choices before the local board; however, in practice the local board takes the initiative by sending out Form 152. On this form the I-O lists three types of work he is willing to do. If the local board approves one of these types of work and the registrant submits evidence of a specific job, the local board will issue an Order to Report for Civilian Work (Form 153).

In listing a "type" of work the CO should be as specific as he wishes. If he wants to work in a mental hospital and does not care which one, he can list mental hospital work. If he wants to work in a specific hospital, he should list the hospital. If he wants to do a specific job in a specific hospital, he should list that. It is permissible to list only one or two choices instead of three.

(2) If the registrant does not submit any work choices, or if the board does not like any of the choices submitted, the board submits to the registrant three types of civilian work it thinks appropriate. Within ten days the registrant must then file a statement offering to perform one of these three, or stating that he will not perform any of these three. If the registrant offers to perform one of the three, the board then orders him into that work.

(3) If neither step one or two results in a work order, a representative of the State Director of Selective Service meets with the local board and the registrant in an attempt to reach agreement on a job. If a mutually satisfactory agreement is made, the registrant is ordered into that type of work.

(4) If the meeting in step three does not produce a work order, the local board, with prior approval of the National Director of Selective Service, issues the registrant a *mandatory* work order directing the I-O man to report to a specific employer at a specified date to perform civilian work. Thus, before a mandatory work order can be issued the local board must secure a job for the I-O man. If the registrant refuses to obey the mandatory work order, then, and the only then, can he be

charged with violation of the civilian work provisions in the draft law and be subject to the penalty provisions of the law. Any CO who refuses to obey a mandatory work order will face prosecution in the U.S. district court having jurisdiction over the place where the civilian work was to be performed.*

Volunteering—

Any I-O claimant who wishes to speed up his assignment to civilian work can volunteer by filing SSS Form 151 with his local board. Volunteering does not guarantee that one gets the job he wants. Usually, a registrant can make a "gentleman's agreement" with his board members that they are willing to assign him to a particular job if he volunteers.

General Provisions—

Registrants classified I-O will be ordered to report for civilian work in the same call-up order as provided for I-A and I-A-O men (see p. 34). However, I-O's who volunteer will be assigned to civilian work first.

COs are expected to pay their own transportation to the place of employment, although Selective Service may give assistance in hardship cases.

Registrants usually are not assigned to work in their home communities, but they may be if the board deems it ". . . to be desirable in the national interest." [Sec. 1660.21 (a)]

I-Os may be assigned to work either in the United States or outside the country. If working in this country, they are under the supervision of the State Director of Selective Service for the state within which they are employed. If outside the United States or United States Territories, registrants are the responsibility of the National Director.

Doctors, dentists, and allied specialists who are classified I-O can be ordered to civilian work up to age 35.

If the I-O registrant is a full time undergraduate student in school or college at the time his civilian work order is issued he is entitled to a postponement of the order to the end of the academic year.

If a registrant refuses to obey a work order or otherwise violates provisions of this section, his file is forwarded to the National Director of Selective Service. The Director then determines whether or not the registrant shall be reported to the Department of Justice for prosecution. (Sec. 1660.30)

RELEASE FROM CIVILIAN WORK

After the I-O registrant has begun civilian work his local board will reclassify him I-W and should then mail him a Notice of Classification (Form 110).

The National Director of Selective Service may release an assigned CO before the completion of his 24 months work when he deems such release to be advisable.

**Johnson v. U.S.*, 351 U.S. 215 (1956).

I-O men who began their civilian work several weeks or months before the draft board issued an order to report for civilian work, may be able to secure retroactive credit. Application should be made to the National Director of Selective Service.

The COs period of civilian work is completed two years from the effective date of the Order to Report For Civilian Work (Form 153). About 30 days prior to this release date, the State Director of Selective Service will notify the CO and his employer of the exact release date. Following completion of the required work the State Director will notify the COs local board that his civilian work has been completed. The local board will then mail to the CO a Certificate of Release from Civilian Work (Form 154). The local board will reclassify the CO "I-W Released," unless or until he is eligible for the V-A (overage) classification.

Conscientious Objectors In Court and Prison

1. Introduction

During the first World War an order to report for induction placed a man under military jurisdiction. Through this procedure 446 conscientious objectors were court-martialed and sent to prison. An additional 4,750 persons convicted by civilian courts received fines or prison sentences, but the percentage of these who were conscientious objectors was probably small.

During World War II, as at present, a man did not become subject to military jurisdiction unless he accepted induction into the armed forces. More than 6,000 conscientious objectors were sentenced to federal prisons by United States district courts. These men violated the 1940 draft law for many reasons. About two-thirds of them were Jehovah's Witnesses, whose primary objection was that their draft boards failed to give them IV-D exemptions as ministers. Of the remainder, the majority were persons denied Selective Service recognition as conscientious objectors, and who refused to obey an order for induction into the Army. Others failed to obey certain provisions of the law because of opposition to all conscription, or because of a conviction that any compliance with military conscription amounted to participation in war. Still others walked out of Civilian Public Service, the payless alternative service camps set up for conscientious objectors by Selective Service with certain church agencies.

Conscientious objectors are also going to prison under the Military Selective Service Act of 1967, in increasing but smaller numbers than during World War II, mostly because of smaller quotas. Also, the courts now give more serious study to the legality of induction orders.

CCCO estimates at least 600 objectors and over 1800 Jehovah's Witnesses have gone to prison since 1948 when the initial version of current draft law went into effect.

This section is intended to provide all those whose principles lead them to violate the draft law with pertinent information about the criminal prosecution and possible imprisonment with which they are faced. It is hoped it will also prove useful to their families, friends, and

legal and lay counselors. The first part is a layman's guide to the intricacies of a court prosecution which, while not an adequate substitute for trained legal counsel, provides a simplified explanation of the steps between a violation of the law and the final disposition of the case in court.

The second part gives detailed information about prison life and procedures, and discusses some of the new problems facing persons who for the first time are entering the world behind bars, thus bringing together information not readily available.

As there are variations in the details of court procedure in various parts of the country, in the routine of different penal institutions, and marked differences among county jails, what follows describes average, but not uniform, conditions, and allowance should be made accordingly.

11. The Non-Cooperator

Most of the young men who turn to the Central Committee for Conscientious Objectors (CCCO) for help are seeking legal recognition of their conscientious objection to military training. However, each year a few more men decide that they cannot cooperate with conscription itself. They are usually referred to as "non-cooperators," "absolutists," or "draft resisters."

Nearly all non-registrants known to CCCO openly declare their inability to register and inform one or more of the following: 1) the local draft board with which one is expected to register; 2) the Attorney General in Washington, D.C.; 3) the nearest United States Attorney; 4) the President of the United States.

An undetermined number of young men do not register, but make no public declaration on the grounds that no one is morally obligated to offer any cooperation whatever with conscription, or with his own arrest and imprisonment. They seldom contact CCCO.

Some who object to notifying government authorities announce their stand by a news release or open letter to their local newspaper and/or other publications. This is also frequently done in conjunction with notifying the authorities.

If the non-registrant informs his local board, it probably will ask him to appear before it. Should he do so, and give the board all the information it requires, he will be registered by the board even though no papers are signed. Section 1613.13(c) of Selective Service Regulations obliges local boards to consider as registered any man who answers their fifteen questions.

If imprisonment follows, Selective Service Regulation 1613.41 becomes relevant. It provides in part: "Any inmate of an insane asylum, jail, penitentiary, reformatory, or similar institution, who is required to be registered on the day he leaves such institution, shall be registered in the manner prescribed in this section. The superintendent or warden of any such institution or any person designated by the superintendent or warden shall perform the duties of registrar . . . The superintendent . . . shall mail the Registration Card (SSS Form No. 1) of a person registered under the provisions of this section to the local board having jurisdiction over the area in which the institution is located." The non-registrant, therefore, becomes a registrant against his will.

Non-Cooperation After Registration

When the 1940 draft law was first amended, men up to the age of 65 were required to register. A sizable number of older men did not do so on grounds of conscience. However, then, as today, there were very few 18-year-old non-registrants. Especially because of the Vietnam war, an increasing number have at some later point decided they could not conscientiously cooperate further.

Some of these men return their draft cards to the local boards with letters of explanation. Those turned in at demonstrations have been given to or sent to the Department of Justice or National Selective Service in Washington. In any event, the draft cards involved ordinarily end up at one's local draft board. When the local board becomes convinced that the registrant will not cooperate, his Selective Service file usually is sent to State Selective Service headquarters for advice. With or without such consultation, the local board may ask the registrant to appear before it to explain in person. Some men accept such invitations and others do not.

Should the registrant persist in his non-cooperation, he will be declared delinquent, and ordered to report for induction whether or not he has undergone a pre-induction physical examination. Sometimes, whether declaring the registrant delinquent or not, a local draft board will proceed with classification, order the registrant to report for the pre-induction physical, and then issue an induction order. It is impossible to predict what a particular board will do in a specific case, but it is safe to predict that it eventually will report the non-cooperator to the United States Attorney for prosecution.

On receiving the order to report for induction, a few non-cooperators report to the designated place but refuse to submit to induction. Most men inform their local boards that they will not comply; still others ignore the order. Whatever the non-cooperator does, he is unlikely to be arrested at this time (outside the Southern District of New York).

Non-Cooperation After Assignment to Alternate Service

For the CO who becomes a non-cooperator after having begun his alternative service assignment, the situation is much the same as for the unassigned registrant. However, since he has been classified I-O and has begun his work (giving him the I-W classification), National Selective Service seems somewhat more reluctant to prosecute and have the man sent to prison. If he continues on the assignment after returning his draft card, or shifts to other work in the "national health, safety, or interest," it is conceivable he would not be prosecuted, particularly if there were little publicity and only a short period of alternative service obligation remaining. Non-prosecution is conceivable only if Selective Service decides not to prosecute and the registrant does not inform the Department of Justice. Clearly, no man should violate the law with the idea that he will not be prosecuted, for in all probability this will happen in due course.

The Unsuccessful Cooperator

The CO who fails to obtain his I-O from Selective Service, and still wants it, reports for induction as ordered, but refuses to submit to induction (does not step forward). This is, of course, an act of civil disobedience which determined COs consider implicit in their application for the I-O classification, if the request is refused. It points out again the close relationship of the various CO stands.

EMIGRATION

Individuals who feel conscientiously unable to serve in the armed forces but find the prospect of imprisonment completely unacceptable are caught in a dilemma which an increasing number have resolved by leaving the country. Canada, which has no draft, is the principal haven for a number of reasons, not the least of which are accessibility and an official desire for immigrants.

Those who are considering this course of action, which in a way is more drastic than submitting to a few years imprisonment, should obtain full information before reaching a decision. If the decision is to emigrate, the move should be planned in a careful and business-like way.

An estimated 20,000 draft age men have emigrated to Canada, obtaining "permanent resident" status, formerly called "landed immigrant" status. This must be held for five years before one can apply for citizenship. Leaving the country is not a violation of the draft law within itself, so long as one notifies his draft board of his change of address within ten days. There is no extradition from any country for draft violation.

Leaving the country does not relieve one of liability under Selective Service, which will continue to process such a registrant. Ordinarily, therefore, if one has not violated the law before leaving the country, he does so after his departure. Such men face the prospect of prosecution any time upon their return to the United States, even as over-draft-age Canadian citizens.

The most complete information is the *Manual for Draft Age Immigrants to Canada* which can be obtained for \$1.50 from the Toronto Anti-Draft Programme, 2279 Yonge Street, Suite 15, Toronto 12, Ontario. Accurate information on Canada's point system, which determines eligibility for permanent residence and ultimate citizenship (also included in the *Manual*) is available separately, together with the legal implications from the point of view of United States law.*

OTHER CONSIDERATIONS

Legal Representation and Advice

The non-cooperator position is not suitable for challenging the constitutionality of the present CO provisions of the Selective Service Act. To do this one must "exhaust all administrative remedies" available within the law. Cooperation forms the foundation of most good court cases, where no constitutional questions are anticipated.

To challenge the constitutionality of the entire draft act one need not cooperate with it, but expert legal representation, substantial financial backing, and a capacity to endure disappointment are required. Having a lawyer in any event may improve the possibility of probation instead of imprisonment, and of a shorter prison sentence. CCCO recommends that all COs standing trial obtain legal advice and

*Available from CCCO (free): Emigration to Canada and its Relation to the Draft and Emigration to Canada: Legal notes for Draft-Age Men.

be represented in court, especially if a "not guilty" plea is to be entered. CCCO has a list of attorneys, and will supply names on request. On the other hand, CCCO counsels willingly those who wish to speak for themselves, and recommends that they attend at least one court session as observers before their own trials.

Arrangements must be made directly with the attorney of one's own choice. Before retaining an attorney be sure to reach prior written agreement regarding his professional fees for handling the case. In event of financial need many of these attorneys are prepared to take cases at a nominal fee, or to accept payments over a prolonged period.

Repeated and Multiple Prosecutions

Both the Department of Justice and National Selective Service seem to prefer to prosecute for refusal to submit to induction or for refusal to perform civilian alternative service. This partially explains why men are seldom prosecuted for failure to carry their draft cards, an offense which carries the same penalty as refusal of induction. Several draft card burners were prosecuted and the constitutionality of the Amendment which made destruction of cards an offense has been upheld by the Supreme Court.*

Technically non-cooperators can be prosecuted for several Selective Service violations rather than one, and therefore run the risk of having to serve several consecutive or concurrent sentences. The latter is not uncommon. The first consecutive sentences meted out in many years were given in October, 1967, by U.S. District Judge Frank M. Scarlett to Clifton Haywood in Brunswick, Ga. Haywood, who had earlier forfeited a \$2,000 bond, was given maximum sentences on two counts, or a total of 10 years imprisonment and fined \$20,000.

In recent years there have been no second prosecutions. Policies advantageous to the violator would undoubtedly be reversed should the resistance position be even more widely adopted.

*U.S. v. O'Brien, 391 U.S. 367, 1968

III. Criminal Prosecution

JURISDICTION

Violation of the Military Selective Service Act of 1967 is a federal offense, triable in the appropriate U.S. district court. Normally a registrant who failed to report for induction or refused to submit to induction will be tried in the U.S. district court having jurisdiction over the induction center where the registrant was last ordered to report for induction. Likewise, prosecution for refusal to obey a compulsory work order will take place in the U.S. district court having jurisdiction over the city in which the job is located.

A defendant arrested in one district, but facing prosecution in another district in which the violation occurred, may request that his case be disposed of in the district in which he was arrested. This will be done only if he consents to the transfer, stating in writing that he will plead guilty or nolo contendere, and only if the United States Attorney for each district approves.

A U.S. court district may be an entire state, or a subdivision of a state, and it may be further divided into divisions if the court sits in more than one city within the district.

THE START OF CRIMINAL PROSECUTION

The case of a person who fails to perform any duty required of him under the law will be referred by the local board to the local United States Attorney for prosecution. As a matter of administrative policy, Selective Service has the files of all registrants claiming CO status forwarded to National Headquarters for determination as to whether or not the file should go to the U.S. Attorney. This does not apply to nonregistrants. Normally the local board and then the U.S. Attorney will give the delinquent registrant a "last chance" to comply with the draft law.

The referral of the case to the U.S. Attorney takes it out of the hands of Selective Service and into the jurisdiction of the Department of Justice.

Prosecution of the case is conducted by the U.S. Attorney, who is the local representative of the U.S. Attorney General. While he takes orders from Washington, the U.S. Attorney usually is given considerable discretion as to which cases to prosecute, how vigorously to press them, whether to recommend a severe or light sentence, and whether to support or oppose a request for probation. While many law violations are not followed up for certain administrative or personal reasons, very few Selective Service prosecutions are dropped; and it is reasonable to assume that sooner or later the case will be brought to court. Otherwise a written explanation must be given Congress.

An FBI interview usually precedes (but sometimes follows) arrest, in which the violator is asked to give a signed statement of his own

free will covering his background, the circumstances of the violation, and the reasons for it. Some defendants give this statement. Others feel it serves no useful purpose, as the statement given the FBI might be used against the defendant out of context, and they prefer to make their own statement in court. Some registrants erroneously believe that if they make only an oral statement it cannot be used in court. But an FBI agent can testify as to the oral but unsigned statements made by a registrant. The giving of such a statement is purely optional, as no one can be required to testify against himself. Most attorneys would advise defendants against doing so. It should be noted that the FBI is solely an investigatory body having nothing to do with disposition of the case in court. Thus, any promise or statements its agents make about the case cannot be relied upon.

ARREST AND BAIL

Arrest— The arrest of the delinquent may occur at any time from immediately following the infraction (as sometimes happens in New York City when registrants report for induction but refuse to submit) to several months after the induction. Arrest may occur at any time or place, and usually will be made by FBI agents. In an attempt to avoid the inconvenience of unexpected arrest, some men inform the U.S. Attorney of their whereabouts and offer to surrender themselves when wanted. The U.S. Attorney frequently will cooperate and write to the defendant to tell him when to appear for arrest. Others regard this as a form of collaboration, and give no notification which they feel will help the government to imprison them.

The arrested objector will be taken to a local or county jail, and must be allowed to notify his attorney or his bondsmen (friends who will arrange bail) of his arrest. His friends can obtain information about him from the U.S. Marshal, the U.S. Commissioner, or the FBI office of the district in which he is arrested.

The U.S. Marshal is the police arm of the federal courts and is responsible for the fingerprinting, custody, and transportation of federal prisoners. His office is often in the same building as the court.

Bail— On the first business day following his arrest (but sometimes on the same day), the defendant must be brought before the U.S. Commissioner, who sets the amount of the bail. At this time the Commissioner may be asked to release the defendant without bail on his own recognizance, or in the custody of his attorney or some local citizen. Where this is refused, effort should be made to get a low bail figure. If the bail set seems unreasonably high (over \$1000), every effort should be made to get it reduced. If the Commissioner refuses to reconsider his decision, a petition can be presented to the judge, who has the power to overrule the Commissioner and reduce the bail.

While some men refuse bail on principle, most accept it and feel that it is important for them to be out to settle their affairs and arrange for their defense. They may otherwise languish in jail for many weeks or

months pending disposition of the case. Time served in jail before sentence does not count as part of whatever sentence may be imposed, but may be taken into consideration by the judge.

Bail can be put up in three forms:

- (a) **BAIL BOND**, which when procured through a professional bondsman, usually costs 10% of the bail. The Central Committee for Conscientious Objectors will endeavor to help COs find bail but arrangements must be made in advance.
- (b) **CASH BAIL**, which should be in the form of a certified (not a personal) check for the amount of the bail. Get exact instructions from the U.S. Commissioner concerning to whom the check should be made payable before drawing the check. In some sections of the country special revolving bail funds have been set up to aid COs and resisters. This is the most satisfactory arrangement. It is better not to post the defendant's personal funds as there is a slight possibility that a fine might be levied and withheld from the bail if it is the defendant's money.
- (c) **PROPERTY BAIL** can be put up in the following manner:
 - (1) the real estate must be located in the federal district concerned;
 - (2) the assessed valuation (less mortgages and in some states less homestead valuations) is used in determining the value, and must be as great or greater than the amount of the bail; however, several properties may be used together if necessary to cover the amount, whether owned by the same owner or different owners;
 - (3) the owner of the property should appear before the Commissioner to sign the bond, taking with him his deed and tax receipts showing the assessed valuation. In some states property owned by a married woman cannot be used, and some states make certain other property exempt from execution. Local exemption laws should be checked by those planning to use property for bail.

Upon final disposition of the case, the bond is cancelled, or the entire cash bail is returned. In the event the defendant fails to report for trial at the time and place ordered, the bail is subject to forfeiture.

Moving the Prisoner for Trial—

If a man is arrested in one district but is to be tried in another, he will be released on bail at the time of his arrest only on condition that he pay his own expenses to the place at which the trial will be held. For example, a man arrested in Nebraska and charged with committing an offense in Chicago will be brought before the U.S. Commissioner in Nebraska, who will set bail. If bail is put up and the man is freed, he will be required to appear in Chicago at a certain date, paying his own expenses. If he remains in custody, the government will transport him to Chicago at government expense—and at a time convenient to the Marshal, often weeks later.

PRELIMINARY HEARING AND INDICTMENT

There are three ways to bring a defendant to trial for violation of the Military Selective Service Act. Most prosecutions follow the second. (1) complaint, and preliminary examination followed by U.S. Grand Jury indictment or the filing of a "criminal information"; (2) indictment by a Grand Jury; and (3) an information filed in the district court by the U.S. Attorney (if the defendant waives indictment).

Normally the defendant's case will be presented to the Grand Jury in what is usually a rubber-stamp proceeding for indictment. The indictment is the official accusation of the crime with which the defendant is being charged. It will state whatever the alleged violation is. Neither the defendant nor his attorney will be present. The Grand Jury will hear the evidence in closed session and return a "true bill" to hold the defendant for arraignment in the district court or will reject the bill. The case is then returned to the U.S. Attorney, and a date will be set upon which the defendant is to appear in court for arraignment. His trial judge will be designated, if he is in a district with more than one judge. Occasionally, a Grand Jury may alter the required amount of bail already posted and, in a few districts, the defendant has to renew or post a new bond at the time of his arraignment.

If the defendant has not been indicted by a Grand Jury prior to his arrest (which is unusual outside of New York City) he may have a preliminary hearing before a U.S. Commissioner. At that time evidence is presented against him and the Commissioner decides whether, if it be true, such evidence is sufficient to hold the defendant for proceedings before the Grand Jury. This hearing may be held at the time the Commissioner sets bail, or at some later date.

Normally the defendant does not present evidence at this hearing, although his attorney will have an opportunity to cross-examine the government witnesses. The defendant may waive his right to this hearing, which is usually another rubber-stamp proceeding. Whether or not the hearing is waived depends on the defendant's wish to hear the nature of the case against him, or whether he wishes to impede or accelerate the prosecution as much as possible.

The defendant may waive indictment by the Grand Jury (even if he has already waived preliminary examination) and may proceed by way of an information filed by the U.S. Attorney. But as indicated, the prosecution usually proceeds by way of indictment by the Grand Jury.

THE ARRAIGNMENT

Arraignment is usually the first time the defendant appears in district court. While awaiting arraignment, it will be helpful to the defendant (if he is out on bail) to attend several criminal sessions of the court, in order to see at first hand what will happen to him, to gain some impression of the judge and the U.S. Attorney, and to get a "feel" of the pseudo-religious rites of the courtroom. If the defendant is not out on bail, he may wish to make arrangements so that he can obtain a shave, clean shirt, etc., in preparation for appearance in court.

The U.S. District Judge responsible for the disposition of the case is appointed for life by the President, usually as a political reward, and the position is frequently a promotion for a former U.S. Attorney or other federal official. In the smaller districts there is only one judge; in larger ones, there is usually some mechanical procedure for dividing the cases among the various judges.

The difference in the handling of similar cases is considerable. As an example, for the years 1966-67, the average sentence of all Selective Service violators in Maine was 1 year and 1 day, while in Oklahoma, all but one defendant were given 5 years. The national average was 32.1 months. These differences reflect the importance of the varying attitudes, interests, abilities, temperaments, or momentary irritations of the judges. There is some merit to the stock prison joke that, when a man gets a stiff sentence, "the judge must have had a bad breakfast." The difference in sentences continues with an overall trend toward longer sentences. Each judge has his own philosophy of sentencing and within the five-year statutory limit for each offense can impose any sentence he chooses.

On the day set for arraignment, the defendant comes to the courtroom and waits until his case is called by the clerk, when he comes forward before the judge. If he has no attorney and cannot afford to pay for one, the court must, on request, appoint one to represent him at no expense. The defendant may waive his right to counsel and represent himself, though judges often are reluctant about this and many strongly pressure the defendant to secure an attorney. It usually is possible for the defendant to get a delay of at least a week, if he states that he is not yet ready to plead. If he plans to ask for delay he may inform the U.S. Attorney in advance and get him to agree to a postponement.

GUILTY OR NOT GUILTY

At this point in the proceedings the clerk will read the indictment and ask the defendant, "How do you plead, guilty or not guilty?" For many Selective Service law violators how to plead presents a thorny problem. The indictment charges the defendant with a specific offense one fact of which he usually readily admits, usually failure to submit to induction. Those not acquainted with procedural and due process defenses are not aware that even if the defendant refused induction or failed to accept civilian work he may still be found not guilty. (See section on Judicial Review Page xx). Often, if the Local Board or the Appeal Board acted in a purely arbitrary fashion or did not act in conformity with Selective Service Regulations and the Law, the defendant is found not guilty.

CCCO ordinarily recommends a not guilty plea in every case where the defendant has attempted to obtain CO status but ends up with an order to report for induction. Only by pleading not guilty can the defendant attempt to prove that his induction notice is illegal.

With these comments in mind consider these four possible courses of action:

(1) To plead NOT GUILTY. If the defendant wishes to have a trial, or to take an appeal to a higher court, he must plead not guilty or he will lose those rights. A date will then be set for trial, until which time the defendant can remain at liberty if he has secured and posted bond.

(2) To stand MUTE—that is, to refuse to plead at all. In this case, the judge will order that a plea of not guilty be entered for the defendant, and a date for trial will be set as above.

(3) To plead GUILTY, in which case, of course, there is no trial and the only remaining matters in the case are the defendant's statement, a possible probation report, and sentencing. When a man has pleaded guilty (or been found guilty after trial) he may be sentenced immediately and start serving that sentence; he may be sentenced immediately with execution of the sentence postponed for a few days to permit settling of personal affairs; or sentencing may be delayed a few days, during which time the defendant may be let free on bond or held in jail.

(4) to plead NOLO CONTENDERE, or, "I do not contest or deny the charge." If accepted by the court, this plea has the same practical effect as pleading guilty, but it fits some cases better than a guilty plea because it avoids the concept of guilt, yet admits the obvious fact that the defendant did not register (or whatever may be the charge). A man following this course might say, "I do not deny the charge made in the indictment but because I feel I have done no wrong in this action I cannot plead guilty. Therefore, I plead nolo contendere." In most districts, judges refuse to accept this plea; in this circumstance, a plea of guilty or not guilty must be entered. If the defendant persists in his plea of nolo contendere, the judge will order a plea of not guilty entered for him.

A DAY IN COURT

While procedures at the time of arraignment and sentencing are quite simple, a court trial on a plea of not guilty involves too many legal technicalities to summarize here. Even on a plea of guilty an attorney may be of great assistance, especially if probation is going to be requested or if the defendant does not feel able to express himself well in court.

If the defendant has pleaded or been found guilty, the judge may proceed to sentence him, or may set a later date for sentence. The defendant may ask to make a statement, at which time he can present to the court whatever material he feels pertinent to explain his action. He may also present witnesses (or friends of the court) at this time to speak in his behalf. A frequent arrangement is to have two such witnesses, one of whom speaks generally about the defendant's position and sincerity, the other asking for suspended sentence and/or probation, and/or leniency in treatment. Anyone speaking in court on behalf of a defend-

ant should clearly state his name, occupation, etc., to the judge, and should present relevant material as briefly as possible.

If the judge is to understand the offender, the concept of an individual's obligation to obey a higher law (the law of God, Natural Law, inalienable rights, etc.) must be clearly and simply explained. Statements should avoid abstractions, qualifications, and involved philosophical digressions.

It should also be remembered that the judge may question the defendant's sincerity, and may question him closely on his past life. Many judges state in court that, while they dislike sending the particular person to prison, they must impose punishment to deter other would-be violators, and because if they allowed anyone to violate a law he did not like, chaos and disorder would follow. Many judges regard a CO position as one that amounts to disloyalty. All these factors should be taken into account in preparing statements for use in court.

Some judges have tried to ride rough-shod over COs, either keeping them from making any statement, or by interruptions distorting what the defendant is trying to say. Newton Garver's trial in Philadelphia (1948) illustrates how a CO pleading his own case can run into serious unforeseen difficulties. After Garver had spoken a few sentences, the judge interposed: "This is not a forum for you to give expression to any theory. You are charged with a serious crime. We are not going to tolerate any speeches. I suppose we are in for another epidemic of inflated egos . . ."

Nonetheless, the defendant can be very firm in insisting upon his right to be heard and to present mitigating circumstances which should be taken into account before sentence is passed. While some judges draw a distinction between "mitigating circumstances" and "philosophy," clearly the motivation behind a criminal act should fall into the category of mitigating circumstances. Part VII, Rule 32(a) of the Federal Rules of Criminal Procedure reads: "Before imposing sentence the court shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally, and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment." If this opportunity is denied, an appellate court might reverse the conviction on appeal.

The U.S. Attorney will also make a statement, and he may make a recommendation as to the sentence to be imposed. This statement usually carries considerable weight. A community which is supporting a man's case in court may find it advisable to see the U.S. Attorney in advance, to try to give him a better understanding of the defendant's position, in the hope that this will moderate his tone and his recommendation. Sometimes the statement and recommendation of the U.S. Attorney will be conditioned by whether or not the defendant "cooperates" with him in waiving hearings and cutting time-consuming red tape.

Following the prosecutor's statement, the defendant, or preferably his attorney, or a witness or friend of the court if there is no attorney, may request a probation hearing, or the judge may on his own initiative order the case referred to the probation officer for a pre-sentence

investigation. This investigation will cover information about the defendant for the use of the judge in determining sentence, and may or may not involve a recommendation for probation. (See below.)

JUDICIAL REVIEW

Despite the fact that the 1940 draft law and the present law both declare that the decisions of the local and appeal boards shall be "final," a series of Supreme Court decisions which arose out of World War II provide for *limited* judicial review. This means that a man who has refused to be inducted and has been arrested and indicted for that refusal can, when he goes on trial, challenge in court the legality of his order for induction.

In *Falbo v. U.S.*,* the Supreme Court in 1944 considered the case of a Jehovah's Witness who had refused to report to Civilian Public Service, the predecessor to civilian alternative service. Falbo claimed the order was illegal and that as a minister he should have been exempted in class IV-D, but the lower courts refused to consider this defense. This decision was upheld by the Supreme Court, which denied judicial review because, by refusing to report, Falbo had not taken all the steps in the Selective Service process. The court reasoned that, had he reported as ordered, he might still be rejected at the induction center.

Two years later the Supreme Court considered the cases of two other Jehovah's Witnesses, *Estep* and *Smith*,** who had been ordered to report for induction but who, like Falbo, claimed they had been wrongly denied ministerial exemption. This time the Supreme Court held that the trial court should have reviewed the lawfulness of their classification. The difference was that *Estep* and *Smith*, unlike Falbo, had reported for induction, been finally accepted, and then refused to submit to induction.*** A short time later two Jehovah's Witnesses,

**Falbo v. U.S.*, 320 U.S. 549 (1944)

***Estep v. U.S.*, *Smith v. U.S.*, 327 U.S. 114 (1946). This was a split decision, and of the original majority of 5, only 2 Justices remain on the court (Douglas and Black). But in view of subsequent cases (see following) affirming the right to judicial review after the administrative process has been exhausted, a reversal of this holding is extremely unlikely.

***"In the *Falbo* case, the defendant challenged the order of his local board before he had exhausted his administrative remedies. Here these registrants had pursued their administrative remedies to the end. All had been done which could be done." *Estep v. U.S.*, 327 U.S. 114 at 122-3. Judicial review was justified despite the fact that Congress had said Selective Service decisions were "final" because "We cannot believe that Congress intended that criminal sanctions were to be applied to orders issued by local boards no matter how flagrantly they violated the rules and regulations which define their jurisdiction. . . . We cannot readily infer that Congress departed so far from the traditional concepts of a fair trial when it made the actions of the local board "final" as to provide that a citizen of this country should go to jail for not obeying an unlawful order of an agency . . ." *id.* at 121, 122.

In granting judicial review, the court ruled out habeas corpus from prison after conviction as a possible remedy, and in a later case noted that ". . . habeas corpus will not be allowed to do service for an appeal." See *Sunal v. Large*, 332 U.S. 174.

who likewise claimed they were ministers, but who had been ordered to Civilian Public Service, won a similar right to judicial review.* In this last case the Court explicitly stated the line at which judicial review could be obtained:

"In the *Estep* case, though the Act provided that the order of the draft board should be 'final,' limited judicial review was permitted . . . Provided that he has exhausted his administrative remedies, the registrant who has not been actually inducted into the armed forces may in defense to a criminal prosecution attack a board's order as arbitrary and illegal.**"

The induction "ceremony" is now definite enough that a man will not be inducted inadvertently. At the point of taking the oath of induction the inductees are lined up and ordered to take one step forward. This is the step into the Army which men denied I-O classification cannot take if they wish to remain subject to civilian law and perhaps to challenge their classifications in court.***

The registrant who seeks judicial review to challenge the legality of his induction order should report, give the Army its last chance to reject him, and then refuse to step forward to take the oath or otherwise submit to induction.****

The technical difficulties of the cases cause us to emphasize the warning that in such cases the registrant should always be in touch with a qualified attorney and/or CCCO well before his date for induction.

No Basis in Fact***** — Language in the *Estep* opinion points out that the range of review is narrow.

"The provision making the decisions of the local boards 'final' means to us that Congress chose not to give administrative action under this Act the customary scope of judicial review which obtains under other statutes. It means that the courts are not to weigh the evidence to determine whether the classification made by the local boards was justified. The decisions of the local boards made in conformity with the regulations are final even though they may be erroneous. The question of jurisdiction of the local board is reached only if there is no basis in fact for the classification which it gave the registrant . . ." (Emphasis added)†

* *Gibson v. U.S.*, *Dodez v. U.S.*, 329 U.S. 338 (1946)

** *id.* at 361, court's note 38.

*** See *Corrigan v. Secretary of Army*, 211 F.2d 293 (9th Cir., 1954).

**** Obtain "Refusal of Induction" memo from CCCO. Free.

***** CCCO has prepared a mimeographed *Attorneys' Guide to Selective Service Law* with references to cases not mentioned in this section which will be of additional assistance to lawyers. It is available to attorneys only.

† *Estep v. U.S.*, 327 U.S. 114 at 122 (1943).

This means that a board's logical exercise of judgment will not be reviewed unless it violates the statute or regulations or is so arbitrary as to violate constitutional rights of due process. With rare exceptions the courts will not intervene when local boards have exercised judgment in conformity with the Regulation unless their action is shockingly arbitrary.*

No Affirmative Evidence—

In November of 1953 the Supreme Court reached further conclusions as to the scope of judicial review by ruling in the *Dickinson* case** that "the courts may properly insist that there be some proof that is incompatible with the registrant's proof of exemption."

Under this decision, as the dissenting minority of three Justices stated, ". . . it is not sufficient that the board disbelieve the registrant. The board must find and record affirmative evidence that the registrant has misrepresented his case—evidence which is then put to the test of substantiality by the courts. In short, the board must build a record."

Procedural Error—

The majority of acquittals are won in cases where the registrant can establish to the satisfaction of the court that the Selective Service System has committed prejudicial procedural errors in the handling of his case. As pointed out above, the decisions of the local board must be made in conformity with the Regulations.***

Among cases which have been won in court are those where the local board showed prejudice,† where new information has not been

* See *Cox v. U.S.*, 332 U.S. 442, 1947, in which the Supreme Court, by a 5-4 vote upheld a local board's denial of IV-D to a Jehovah's Witness, despite the fact that Cox had been devoting all his time to his ministry and had no other employment. The court held that the denial of IV-D was final unless there was "no basis in fact" for the local board's action, and the narrow scope of judicial review was held similar to that available to registrants who claimed to have been improperly inducted and who sought habeas corpus. The court also declared that in criminal trials, a court's review of a local board's classification of a registrant was properly limited to the evidence which was before the local board and upon which it acted.

** *Dickinson v. U.S.*, 346 U.S. 389 (1953).

*** One of the best statements of this principle was made by the Court in *U.S. v. Zieber*, 161 F.2d 90. The Court commented: "The learned Judge in fact charged the jury that if the members of the Local Board 'endeavored honestly and fairly to comply with' the provisions of the Selective Training and Service Act and the applicable regulations 'then the fact that they may have made errors could not be complained of in the courts.' He went on to say that 'It would be no defense to an indictment that they had honestly made a mistake, because if they honestly made a mistake then it was the duty of the registrant to obey that order and to report for induction and be inducted.' This statement of law is incorrect. Good faith and honest intention on the part of the Local Board is not enough. There must be full and fair compliance with the provisions of the Act and applicable regulations."

† *Niznik v. U.S.*, 184 F.2d 972 (6th Cir., 1950).

considered,* where the proper classification procedure is not followed after a personal appearance before the local board,** where an appeal is not granted,† where advisers are used in an unauthorized manner,†† where the local board hearing is not fair,††† and where the local board made an error in law.‡

When a registrant is acquitted in court the case returns to the local board for processing in conformity with the law. This reopens the registrant's classification with new opportunities to add information to the file, appeal subsequent classification, have another personal appearance, and otherwise use the entire administrative process.

PROBATION AND SUSPENDED SENTENCE

It is important to distinguish between PAROLE and PROBATION. Parole is a qualified release from prison after a man has served a part of his term. A man sentenced to more than 180 days in prison by a federal court is eligible for parole after serving one-third of his sentence. A defendant given a suspended sentence and not sent to prison at all, but released to live under certain conditions, is being placed on probation.

In disposing of a criminal case, the judge has two alternatives to prison: to impose a fine (rare in draft cases, and then usually in addition to a prison sentence), or to give the man a suspended sentence and place him on probation. The last alternative is widely used in normal criminal procedure.

Federal Prisons 1960 reports that 37.1% of all persons convicted in U.S. District Courts for the year ending June 30, 1960, were placed on probation. About 5% of the World War II COs in court received probation; the Administrative Office of the U.S. Courts released figures indicating that during the 1966-67 government fiscal year 8½% of the convicted draft violators received probation.

Various reasons explain this; yet, for a judge who is sincere in his statement that he does not believe COs belong in prison, suspended sentence or probation offers an obvious "way out." The U.S. Probation Law reads: "Upon entering a judgment of conviction of any offense not punishable by death or life imprisonment, any court having jurisdiction to try offenses against the United States, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution of sentence and place the defendant on probation for such period and

**U.S. vs. Zieber*, 161 F.2d 90 (3rd Cir., 1947).

***U.S. v. Stiles*, 169 F.2d 455 (3rd Cir., 1948).

†*Tung vs. U.S.*, 142 F.2d 919 (1st Cir., 1944).

††*U.S. ex rel Levy v. Cain*, 149 F.2d 338 (2nd Cir., 1945).

†††*Bejels vs. U.S.*, 206 F.2d 354 (6th Cir., 1953).

‡*U.S. v. Carson*, 282 F. Supp. 261 (E.D. Ark., 1968).

Wills vs. U.S., 384 F.2d 943 (9th Cir., 1967).

In the last two cases failure to exhaust administrative remedies was held not to bar judicial review.

upon such terms and conditions as the court deems best." (U.S. CA 18, Sec. 3651)

Normally, a number of restrictive conditions are attached to probation, one of which, requiring obedience to all laws, has been used to block probation to COs and resisters because it is assumed they will again violate the draft law. But it should be noted, from the law above quoted, that none of the conditions is required by the law, which gives the judges the widest discretion to impose "such terms and conditions as the court deem best." These can be drawn to meet the conditions of the individual defendant.

In one case when a CO was given probation the judge had the requirement to obey the law written, "The defendant shall obey all laws, Federal, state and local, except that this condition of probation shall not be interpreted as again requiring the defendant to comply with the Draft Board order of induction into the armed forces, the Selective Service Act being excepted from this condition."*

If the judge considers probation, he usually refers the case to the probation officer for an investigation. In general, the men in the U.S. Probation Office (who administer both probation and parole in individual cases) are the most liberal of the court officials with whom the violator comes in contact. In the event of a probation hearing, as many persons as possible should see or write to the probation officer urging probation. Likewise, efforts should be made to persuade the U.S. Attorney to recommend probation or a suspended sentence, or at least not to oppose it. The recommendations of these two officials will carry great weight with the judge, and they in turn are subject to the amount of pressure that can be brought to bear upon them in the community. This "pressure" should consist of testimony to the CO's good character and reputation, pointing out the futility of imprisonment, the danger to democracy of punishing men who act out of religious belief, and the alternative open to the judge.

SENTENCE AND APPEAL

When sentence is imposed, the defendant may be able to get a few days to settle his affairs upon request, but this should not be counted upon. Normally, he will start serving his sentence at once.

The judge can reduce any sentence he imposes within 120 days of the time he gives it. Where the sentence seems unusually harsh, it may be possible to convince the judge that he should reduce the sentence. This has happened in a few cases.

An appeal may be taken, which will be heard by the United States Court of Appeals. Anyone contemplating such action should consult an attorney or counseling agency well in advance. Except in cases where a registrant is denied his appropriate classification through denial of a

*A man who is on probation, suspended sentence, parole, or conditional release following conviction of violation of the draft act should be placed in class I-Y or IV-F by his local board.

fair hearing or an error in law, appeals prove futile, and they involve heavy expense. Certain few selected test cases on broad constitutional issues may be carried and financed by interested organizations to the Supreme Court.

PUBLIC RESPONSIBILITY

In the last analysis, what happens to a defendant in court will depend in large measure upon the climate of opinion in the community in which he is tried. While there is no strictly legal defense in many cases, most Americans probably feel that sincere conscientious objectors and resisters should not be imprisoned, and there is strong evidence that the pressure tactics of groups like the American Legion are not representative. A poll taken by Dr. Leo P. Crespi of Princeton, during World War II, found a majority friendly to the CO with less than ten percent believing COs should be imprisoned.* CCCO does not know of a more recent poll.

Judges, U.S. Attorneys, and other officials are sensitive to public opinion. A man who stands in court alone and unsupported frequently gets summary and severe handling. With community support, his case will at least be given serious consideration, and the judge's attitude will frequently be modified.

*"Attitudes toward Conscientious Objectors and Some of Their Psychological Correlates"; *Journal of Psychology*, Vol. XVIII: 81-117, July, 1944; Vol. XIX: 209-310, April, 1945; XX: 321-46, October, 1945.

IV. Prison Life

Prisons are expected to discipline rigorously and at the same time teach self-reliance. They are built to be operated like vast impersonal machines, yet they are expected to fit men to live normal community lives. They operate in accordance with a fixed autocratic routine, yet they are expected to develop individual initiative. All too frequently restrictive laws force prisoners into idleness despite the fact that one of their primary objectives is to teach men how to earn an honest living. They refuse the prisoner a voice in self-government, but they expect him to become a thinking citizen in a democratic society.

—James V. Bennett*
Director, retired
Federal Bureau of Prisons

In this part of the *Handbook* we use the term "CO" to include all those who violated the draft law for conscientious reasons.

The convicted conscientious objector who, handcuffed to a fellow prisoner and locked in the marshal's van, starts off on the first stage of his life behind bars, is changing worlds as abruptly as Rip Van Winkle. While the details of imprisonment vary widely from jail to jail, even within the federal prison system, the following pages will help to provide the CO with a general introduction to prison life. Men facing prison will find it helpful to read of the prison experiences of others, some of which are listed in the bibliography beginning on page

THE CO AND THE PRISON WORLD

As viewed by prison authorities, draft violators are square pegs in round holes. While many of them make a "satisfactory institutional adjustment," as a group they are more intelligent, more independent, and less easily deterred by fear than the conventional convict. Whereas the usual prisoner is alone on the world, the COs have a small but vocal group watching over them from the outside. The small minority of CO prisoners who have carried their consciences into action inside prison against Jim Crow practices, censorship, slave labor, or the imprisonment of conscience, with the methods of agitation, civil disobedience, work strikes, or hunger strikes, when combined with publicity and support outside, have presented the Bureau of Prisons with a difficult problem.

Despite widely varied treatment, in general COs get a better break than average prisoners. In some prisons during World War II, because of superior intelligence and ability, they took over most of the clerical and "soft" jobs; and where the defiant convict would be ruthlessly suppressed, rebellious COs were usually treated by "administrative segregation."

*By permission from *Contemporary Correction*, edited by Paul Tappan, Copyright 1951, New York, McGraw-Hill Book Company, Inc., page 70.

From his fellow inmates, the CO has had a varying and often conflicting reception. The youthful exuberance of some of the COs has been the source of a good deal of friction, particularly in those institutions where many inmates are doing long terms. Likewise, many inmates have a flag-waving patriotism that has no use for dissenters, and many will regard a man who goes to prison solely because of his beliefs as a "sucker." Again, many inmates, particularly those who have already done considerable time and are thoroughly indoctrinated with prison totalitarianism, will frown on the defiant deviation from the rules and regulations of some COs who, they fear, will get them all into trouble by rocking the boat. CO action on behalf of racial equality is particularly suspect in this regard.

On the other hand, most COs will find they are socially acceptable, for though prison society is sharply stratified, it is much more closely bound together than any outside community of such widely varied components. All inmates are in the same boat, and common trouble, plus a common dislike of the men who stand between them and freedom, form a strong bond. So also, the CO who stands up without fear against the force of prison officialdom will gain certain respect from his fellow prisoners, and many COs in punishment status have received substantial sub rosa help from non-CO inmates.

The mutual antagonism between guards and inmates is one of the most difficult features of imprisonment, for the CO can get caught in the middle. He can respond to this situation in one of three ways. He can fall into the traditional pattern of returning contempt for contempt. Self-righteousness not only questions the officials' authority, but suggests that other prisoners are morally repugnant. At the other extreme, he can join those convicts who fawn and flatter, picking up favors as crumbs, and incurring the contempt of both officials and convicts. The third alternative is a difficult one: without surrender of rights or beliefs, to see through the wall of hostility mingled with fear and accept convict and official alike as fellow humans. Nowhere more than in prison is Gandhi's warning needed: "Hate the sin and not the sinner" is a precept which, though easy enough to understand, is rarely practiced, and that is why the poison of hatred spreads in the world. . . . It is quite proper to resist and attack a system, but to resist and attack its author is tantamount to resisting and attacking oneself."

Like other people, prison officials can respond to friendship. Respect, humor, and humility coupled with firmness, have shown that even in prison, "a soft answer turneth away wrath."

FIRST EXPERIENCE—THE COUNTY JAIL

Federal prisoners awaiting trial or, following conviction, awaiting transportation to a federal institution, are held in one of 3000-odd county or local jails usually controlled by the sheriff and often staffed by spoils system appointees. The personnel of a county jail is usually more brutal and of lower intellectual level than the federal prison staff.

As many as two-fifths of a county jail population will be men convicted of no crime, but merely awaiting trial.

The Federal Bureau of Prisons inspects local jails and classifies them as to whether or not they meet specified standards of food, sanitation, medical care, security, and personnel. Using a score of 100% as meeting all standards, of the 3115 institutions reported on for 1950, 2435 (78%) had a rating of less than 50%. Only one in 26 got a rating of 60% or better.

Living conditions and regulations vary so widely among different jails that what follows can only be called somewhat typical conditions, and what the CO finds may be considerably better or worse. Housing is in crowded cells furnished only with bunk beds (poor or no springs, often no mattresses), dirty blankets (sheets very rare), toilet, wash basin, and perhaps a box or table. Cells are often filthy and shared with various many-legged occupants. Food may or may not be adequate in quantity, but the diet is monotonous, unbalanced, and of very low quality. In most jails, diet can be supplemented with commissary purchases such as candy, oranges, and sometimes whole meals; commissary prices are often exorbitant. Clothing may be supplied, or may be the prisoner's own. Conditions in the smaller jails are generally much better than in those of large cities.

Correspondence is censored, but there are often no restrictions on the number of letters sent or received. Visiting conditions frequently are atrocious, often reduced to yelling above jailhouse bedlam through screens so heavy the visitor can hardly be seen. Some jails permit daily visits by any number of persons; others sharply restrict them. Ministers and lawyers can usually see the prisoners under more decent conditions and outside visiting hours.

Rules on possessions also vary widely; most jails permit Bibles, toilet articles, a fountain pen, reading glasses; sometimes a pencil, paper, pipe, unopened package of cigarettes or tobacco; less often, books, games such as chess, dominoes, checkers. Newspapers and magazines may be available through commissary.

Daily life in county jail is a compound of sleep, food, talk, noise, reading, and idleness. There is usually no work program, no yard or recreation facilities, and too poor lighting for long reading. In some jails inmates are locked up in cells almost all the time; in others, they are locked out of their cells and kept all day in a long, bare room called the tank. The monotonous routine is broken only by meals, trips to court, occasional showerbaths, arrival of new prisoners, occasional fights, and endless conjecture ("How soon will we be moved?"—etc.).

A daily schedule in county jail may run as follows: 6:15, rising; 7:00, breakfast; 7:30, clean cells; 8:00-11:00, in tank; 11:00, dinner; 1:00-3:00, in tank (visiting hours); 4:30, supper; 5:00, locked in cell for night; 10:00, lights out.

INTRODUCTION TO FEDERAL PRISON

After sentence has been imposed, the Department of Justice in

Washington determines to which institution the prisoner will be sent. Upon receipt of these orders, the U.S. Marshal will, at a time convenient to him, transfer the prisoner. The duration of the stay in county jail may thus vary from a few days to a few weeks following sentence. Transfer may be made by automobile or train; the prisoner may be moved individually or the Marshal may wait until he has several prisoners to take all at once.

In the physical sense, federal institutions are so superior to most county jails that on arrival it is like entering a different world. The diet is better and more balanced and though, like most institutional food, it assumes a drab monotony with the passage of time, it is a welcome change from jail food. Living quarters, though often overcrowded, are clean, with comfortable beds with sheets. The attitude of the officials is somewhat more uniform, ordinarily an impersonal politeness. However, they may be friendly and informal, or openly hostile, especially if they are "rookie" guards. Physical violence on the part of the officials is rare.

Quarantine— The arriving inmate may be allowed to bring nothing with him into prison, or he may be able to bring quite a lot, depending on local regulations and the whims of the admitting officer. Possible possessions admitted (in order of decreasing likelihood); Bible, reading glasses, fountain pen, pipe, unopened packages of cigarettes or tobacco, toilet articles, books. He will be divested of all his clothing, which with inadmissible possessions will be mailed out to his relatives at his expense, held for him until his release or "donated to the institution" (destroyed). The new inmate's body will then be given a thorough examination for contraband, a shower bath, and prison clothing. He will be fingerprinted, photographed, and asked to sign a power of attorney giving the warden the right to censor his mail and handle money sent him at the prison. (Many COs balk at the last point, but the prison is usually adamant; either sign, or you get no correspondence privileges.) After several hours of this, the new prisoner is taken to a cell.

The new prisoner is placed in quarantine for about a month. On prison farms or camps, this may be a very casual affair; he may mingle with other inmates and be assigned to work within a few days. In the larger institutions, it involves segregation in a separate quarantine section for about 30 days. While in quarantine, the inmate lives in a single cell furnished with a bed, toilet, wash basin, table, and chair. He is out of the cell block daily for meals and a yard period (in fair weather); twice a week for clean clothing; once a week for church, and once for a good old-fashioned short haircut. The quarantine schedule may be: 6:15, rising; 7:00, count; 8:00, breakfast; 11:15, lunch; 12:00, count; 1:00 yard; 4:30, supper; 5:30, count; 9:00, count; 9:30, lights out.

New inmates may be assigned to odd jobs (such as janitor or waiter) in the quarantine building a few hours a day, and occasionally may be taken out on work details. While one is in quarantine, no

visitors are ordinarily permitted, and correspondence is limited to two close relatives.

Many mornings or afternoons in quarantine are taken up with the medical examination, educational tests, and endless interviews. The purpose of these interviews is to prepare the inmate for classification (see below) and to explain to him the functioning of the prison and its regulations. The educational officer will try to fit him into the school program; the chaplain of his faith will ask him about his life; the psychiatrist, on the basis of a ten to fifteen minute interview, will write a sweeping diagnosis about the prisoner. This "diagnosis" often follows a standard form for COs—mother fixations, antipathy to father, sexual maladjustments, latent homosexuality, etc. The most intensive investigation is by the parole office, which will not only interview the inmate, but often verifies his information from outside sources. A social worker in an agency in his home town may also be sent to his home to collect information about his parents, family life, etc. All this material finds its way into the files for use by the classification and parole boards and by the case worker to whom the inmate is assigned. The inmate is never allowed to see this file, which often contains errors or distortions about him. However, through underground channels he may learn what it contains.

Time in quarantine is passed in endless jailhouse talk and reading. The quarantine period gives the authorities a chance to look over the new arrivals, indoctrinate them into prison routine, and note potential troublemakers. Prisoners who step out of line in quarantine, through violation of petty regulations, loud talk, noncooperation, refusal to work or stand count, are often harshly dealt with, in an attempt to have them broken and docile by the time they enter the general population.

Classification— The classification procedure in federal prisons is a widely heralded reform of "the new penology," which is supposed to make possible individual treatment of the offender and thus lead to his "rehabilitation." As the only way of rehabilitating a CO would be to get him to abandon his beliefs, the procedure as applied to religious and political prisoners makes no sense whatsoever, and, in practice, makes but little more sense as applied to other convicts. Many of the men who administer the plan within the prisons recognize this, and in operation the classification program usually means filling out the required forms, which are then "filed and forgotten" until parole time comes around.

At the end of the quarantine period, the prisoner is brought before the classification board, a proceeding which usually lasts about three minutes. The board is headed by the warden or associate warden, with other officials seated with him around a table. The prisoner is informed of his degree of custody, and to what living quarters and work he has been assigned. After a possible brief lecture on work being a "privilege," he is formally asked if he has anything to say and then led out. Although assignment of the inmate to a job which meets his individual needs and qualifications is supposedly one of the main points of the classification

system, the institutional need for inmate labor may take precedence in assignments. Thus, a CO school teacher is more apt to end up on a labor crew than in the prison educational system. In several respects prison is a bit like being in the Army.

GENERAL PRISON LIFE

The following routine relates to federal correctional institutions, and even within these there are marked differences. Reformatories and prison camps are less regimented.

Daily Routine— 6:15, rising; 6:45, count; 7:00, breakfast; 7:40-11:40, work; 11:50, count; 12:00, dinner; 12:30-4:00, work; 4:30, count; 5:00, supper; 7:30, count; 9:30, lights out. On Sundays, there is no work program. Church services are held in the morning and visiting hours in the afternoon. Visiting is also permitted on Saturdays, and holidays. Bath line may come on Wednesday and Saturday afternoons, or may not be restricted. School and library hours come evenings during the week; there is a movie on week-end evenings. At least once a week, the inmate may make purchases from the commissary, spending not more than \$15 a month for candy, tobacco, cookies, toiletries, and occasional other items. Permission can sometimes be obtained to get books, study materials, musical instruments, or other items from correspondents who obtain permission in advance. Correspondents can, with clearance, enter subscriptions to newspapers or magazines, which can also be purchased through the commissary. It takes six weeks to three months or more for special orders to clear through red tape. Weather permitting, yard is held on week-day evenings during the summer between supper and dark; also on Saturday afternoons and twice on Sundays. Some institutions are much freer than others; on camps and farms, the schedule is more flexible, with free access during off-hours to the library, yard, game room, and showers.

Visits— Visiting privileges range from two or three hours to two full days per month, with only members of the immediate family permitted without special authorization, which may be hard to get. Fiancées can make arrangements for regular visits. By arrangement with the Bureau of Prisons visits by CCCO's representatives do not count against the visiting hours permitted. Visits with attorneys or for business reasons can be made under special arrangements. Although an officer supervises the visiting room, he cannot generally listen to the conversation. Inmates cannot bring anything into the visiting room, nor can things be passed back and forth between the visitor and the inmate, except such things as previously inspected papers needing signatures. The inmate is "shaken down" before and after the visit. He can greet his visitors and say good-bye with a kiss and embrace or shake hands, but no other contact is allowed during the visit.

Correspondence— By regulation correspondence is restricted to from seven to eleven correspondents, all of whom are subject to approval. Ordinarily COs may also write to the Executive Secretary of CCCO.

At Christmas time, inmates may receive Christmas greetings without restriction, although difficulties sometimes arise. Christmas gifts are limited to an approved specified gift from one correspondent only; but extra gifts occasionally are admitted. Each inmate receives from the prison a brown paper sack containing hard candy and cigarettes.

The inmate may be limited to writing three letters a week, each letter not more than one page (both sides). The government provides stationery and pays the postage. Incoming mail is limited to seven to ten letters a week, which may be limited in length to two or three pages. All letters are subject to censorship.

Difficulties with the censor include: names, or mentioning of information about other inmates; any derogatory statements about the institution or its personnel; and in certain instances, political matters considered of a subversive nature. Through World War II, COs in almost all institutions were in constant trouble with censorship, and their continued agitation, plus a hunger strike at Lewisburg, plus outside pressure on the Bureau of Prisons, resulted in considerable relaxation (but no basic modifications) of censorship.

Each institution has a prison mailbox; in which the prisoners may send uncensored letters of complaint addressed to the President, the Attorney General, the Director of the Bureau of Prisons, and some other officials. Prison gossip constantly reports that these letters are actually censored; at any rate the warden sometimes knows the replies.

Relatives and friends of imprisoned COs should not take the correspondence and visiting restrictions too literally. In many institutions, inmates receive extra letters, visits, and books. Many letters from non-authorized correspondents also get through, although usually the prisoner cannot acknowledge them. One type of mail admitted officially is letters pertaining to business matters concerning the inmate.

Work— The new inmate will not only be informed solemnly that work is a privilege, but that to refuse to work is a serious offense. All inmates, except those totally disabled physically, are assigned to work of some nature, falling into several categories: (1) maintenance jobs within the institution (dining hall, kitchen, janitor, hospital); (2) industrial jobs connected with whatever projects may be in operation at the particular institution (such as food canning, printing, clothing manufacture, sometimes for the military); (3) work on the prison farm; (4) "made-labor" jobs, such as ditch-digging crews, which absorb the surplus of labor which always exists, and usually include one crew for recalcitrants and men who do not adjust to other work programs; (5) office and administrative jobs, such as secretarial work in the parole office, or work in the library, school, or chaplain's office. These are regarded as "soft" jobs, and in many prisons were taken over largely

by COs during World War II. But some COs refuse to take such jobs because of the involvement in the administration of the prison.

Although most inmates are glad to get work following the idleness of quarantine, it is soon found that the work program is one of the most repressive features of imprisonment. The work is often useless. It is devoid of meaning and value, and is bound up in authoritarian red tape. This is also true of "service" work in the school or hospital, where enthusiasm and initiative on the part of the prisoner may be choked off. The prisoners respond with the reaction of slave labor through time: slow-downs, petty sabotage, lethargy, and endless beefing. The only convicts who work hard are those who are trying for parole or those who feel they are really serving their fellow inmates.

Any prisoner who works hard tends to "show up" his fellow inmates, which causes resentment, and he may be suspected of being a potential stool pigeon. The CO who likes to work, will be faced with a real problem.

A number of COs refused to work at all during World War II, either objecting to some specific abuse or as a means of protesting the prison system or their own imprisonment. They were usually placed in "administrative segregation."

Housing— The inmate may be placed in a single, double or group cell but are more often housed in dormitories, the best of which have shoulder-high subdivisions. On farms or minimum custody institutions, dormitories are in use almost exclusively, and many COs found them the worst of all forms of housing. There is little enough privacy or quiet in prison at best, and in a dormitory, with crowded (often double decker) beds and a blaring radio loudspeaker, life can be intolerable. Usually single cells prove to be the best housing, but may be available only to night workers.

Medical Service— Operated by the U.S. Public Health Service, prison hospitals are usually adequately equipped, and the physicians at least meet minimum professional standards. Outside physicians are sometimes called in as specialists. Of the service given in more serious cases there is often no complaint. However, the medical officers are a part of the administration; they often share the conventional prejudices against all prisoners and suspect any sick man of malingering.

The Chaplains— Religious services are conducted by the chaplains (one Catholic, one Protestant, and in large institutions, one Jewish). They interview all prisoners, are available for interviews with those requesting them, visit men in punishment status, in the hospital, etc. Some of the chaplains serve a real function and are useful in performing minor services. Several provide a gathering place for serious minded inmates. They are limited by being employed and paid by the Bureau of Prisons.

Racial Segregation— The official policy of the Bureau of Prisons is one of integration. Work crews, recreation, and other activities of the prisons are not segregated. However, in practice Negroes are still given segregated housing and eat at segregated tables in the dining halls of some federal prisons. Other minorities are unlikely to be segregated. Some Negroes are on the staff of the Bureau of Prisons as custodial officers.

Homosexuality— According to several recently released COs, homosexuality is "part of the basic picture" of prison life. Undercover homosexual activity exists to some extent in every prison, and is commonplace in institutions housing a high percentage of youthful offenders. The majority who engage in homosexual acts are bi-sexuals with a natural preference for the opposite sex in the "outside" world. Deprived of female companionship, and hungry for physical contact and affection, they turn all too readily to fellow inmates for whatever comfort and release they may find. Since COs tend to be young and unusual, they are often the object of special interest. While it is not uncommon for this "special interest" to be expressed eventually in terms of threats, the threats are seldom translated into overt physical attack. "While there are occasional rapings of random victims," reported one CO, "most draft resisters experience little more than verbal threats."

Discipline— The prison rewards obedience with a certain relaxation of some restrictions, as on a prison farm where regulations are more relaxed. Favored prisoners receive many special privileges as to housing, jobs, and visitors; and in their cases, violations of some of the petty, annoying regulations are often overlooked. Order is maintained by the implied promise of favors for good behavior and the open threat of punishment for misbehavior. A prisoner who is defiant or who does not "adjust" adequately is dealt with swiftly and sternly. The offender is taken before a disciplinary court sometimes called the "adjustment committee," where guilt is taken for granted and punishment meted out. Punishments vary from loss of privileges to segregation for long periods, transfer to a "tougher" institution, or loss of "good time" (reduction of time served for good behavior).

In most cases good time is restored, because prison officials really don't wish to prolong the imprisonment of a "trouble-maker."

BUILDING YOUR TIME

Time becomes the endless preoccupation of the man in prison. It is reckoned not only in months, days, and minutes (two years become 1,051,200 minutes), but in Sunday dinners to be eaten, or the counts to be endured. One seldom suffers physically, and as the months pass physical conditions become less important anyway. His imprisonment is not a tragic waste of time, for it transports him across economic

and ideological lines he might never cross otherwise and teaches him never again to take freedom and democracy for granted, if he ever did. He is not so much isolated from society as removed from one into another, against his will. But like every other inmate, the CO must build his time, and doing time is partly an art and partly a science.

Dostoyevsky once wrote that the surest way to drive a man insane was to subject him to meaningless work, endlessly repeated. Life in prison can be exactly that—a meaninglessness that goes on and on with no end in sight. The hardest time after quarantine usually occurs as the inmate becomes eligible for parole, files his application, and then waits for the verdict. The last few weeks before release are also apt to drag very badly. Separation from family is, aside from absolute loss of freedom, the most frequent cause of "hard time." The engaged or married man is subjected to a constant barrage of "Joe, the Grinder" stories, and the exploits of this mythical character who can steal anyone's gal are borne out, sadly enough, in many instances. Prison-censored correspondence and visiting are slender threads with which to withstand the disruptive force of separation in imprisonment. The laws of 43 states which make conviction of a felony grounds for divorce simply recognize the fact that long imprisonment puts a severe strain on the marriage relationship. Death or serious illness in the prisoner's family are the cruelest events to face while in prison, for then the senselessness which keeps a man from loved ones who need him is indeed hard to bear. Sometimes arrangements can be made for temporary release under custody.

Experienced convicts usually come up with a three-fold prescription for hard time: Fill your life with routine, do your time a day at a time, and do your own time and no one else's. There is considerable value to the first two-thirds of this, depending upon the routine. For most prisoners, life consists in moving from one narcotic to another: the weekly movie, a mystery novel, the nightly game of chess or bridge, the recreation program, etc. Initiative, energy, and a personal sense of responsibility for anything beyond oneself are usually the first casualties of prison life.

COs have reacted to these varying strains in a variety of ways. Few could honestly agree with the 17th century English poet, Richard Lovelace, who wrote in prison the famous lines:

"Stone walls do not a prison make
Nor iron bars a cage . . ."

But many have found through their imprisonment new ways to seek freedom through self discipline. Opportunities for service to other prisoners are explored and developed by many CO prisoners. Combatting racial segregation, relaxing censorship, instituting or helping recreational or educational programs, constant personal counseling with men who desperately need their burdens shared, all may prove satisfying resistants to the corrosive quality of prison. Some men engage in study programs blocking out work they wish to accomplish and sticking

to it. Correspondence courses are available except, for inexplicable reasons, to COs imprisoned at Lompoc, California.

Whatever form it takes, some form of personal discipline is an essential antidote to prison life, for what Oscar Wilde described in *The Ballad of Reading Gaol* still applies:

"The vilest deeds like poison weeds
Bloom well in prison air;
It is only what is good in Man
That wastes and withers there."

The CO is not immune to this withering. Mental and physical laziness, indulgence in scapegoating (against officials), and the tendency of the prison system to mold the prisoner in its image are all enemies to be fought. They are best fought with curiosity, physical exercise, a sense of perspective, and a sense of humor.

A recently released CO says that an occasional temporary refusal to cooperate can be refreshing, in part because the consequences can result in a period of most welcomed privacy.

PROTEST WITHIN PRISON

Protest against segregation, censorship, the prison system, or the imprisonment of conscience led a number of World War II COs to engage in work strikes, hunger strikes, or other forms of resistance, such as refusing to stand for count or to obey petty regulations, or even sabotaging prison property. There has not been much such protest since 1948, but many awaiting imprisonment do not plan to offer full cooperation.

A man who engages in such resistance should assume that he will not be considered for parole at the end of one third of his sentence. Nor should he be surprised if his "good time" is forfeited.

Some noncooperating COs never felt so free in spirit as when all their prison "privileges" were taken away from them by the authorities. They then had no further punishments left to inflict, aside from actual physical beatings (which were rare), or transfer to the Springfield, Mo., Medical Center for Federal Prisoners, where it was not difficult to manhandle patients in the mental hospital division. Conversely, as the authorities gave them more privileges, some COs felt more restrained than before, for the threat to withdraw the privileges acted as a whip to keep them in line.

Noncooperating COs generally are placed in a status known as administrative segregation. The nature of administrative segregation varies greatly from prison to prison and from time to time within a given prison, reflecting the temperaments and whims of wardens and disciplinary officials. Commonly, it means separation of the offending CO or group of COs from the rest of the prison population and confinement in a single cell. Those in administrative segregation usually are allowed to borrow books from the prison library, to correspond with family and friends, and to receive visits on a restricted basis. At the other extreme, there is the strip cell, experienced by some "recalcitrant"

COs. The occupant of the strip cell is treated like an animal. He has no privileges, and his cell is devoid of furniture and has only a hole in the floor as a toilet. An uncooperative CO can be punished by being placed under conditions anywhere along the gamut from administrative segregation, as described in the beginning of this paragraph, to the strip cell in which Peter Kiger spent several days in Springfield in 1963, and one to which Gregory Beardall paid several visits in Petersburg in 1966.

GETTING OUT OF PRISON

Parole— An inmate serving a sentence of six months or more is eligible for parole upon expiration of one third of his term. Before this date, he will (if he wishes parole) file an application, which will be forwarded to the Parole Board in Washington together with all other information about him. He will then be given a brief and often perfunctory hearing before a member of the Parole Board. It is required by law. In due course he will receive a note in his mail, which will either tell him his application has been denied, or that parole has been granted effective such and such a date. No reasons are given. It is the unwritten policy never to grant parole to a draft violator until he has served at least one year in prison. If any good time has been taken away, the inmate is considered ineligible for parole.

A man released on parole must agree to the following conditions: to work at a job and salary approved by the Parole Board; not to move without permission out of the Federal District in which he is paroled; to obey all laws; to abstain from alcoholic beverages; to avoid bad company and surroundings. He must have a parole advisor whom he must see monthly; must file a monthly report of activities, earnings, and spendings; and may not be married without permission. Some of these restrictions may be relaxed, and, in general, their enforcement in CO cases is very loose. Some COs have had unconditional paroles without restrictions; others have largely disregarded the restrictions. For violation of parole conditions, the Parole Board has the power to return the man to prison to serve out whatever part of his sentence was remaining when he was paroled.

Conditional and Good Time Releases— Any inmate serving a sentence longer than six months earns "good time" which is deducted from the length of his sentence. The amount earned is five days per month on a sentence of six months to one year, six days per month on a sentence of over one year to three years, and seven days per month on a sentence of over three years to five years. Any inmate released with 180 days or less of good time is released unconditionally. An inmate released with more than 180 days of good time is given a conditional release which is similar to parole. To obtain a conditional release the inmate must sign an agreement of the same general sort as a parolee signs. When the man on conditional release gets to the point where he

has only 180 days left of his sentence, the conditions of his release are terminated.

In addition to the above provisions for good time, inmates of prison camps earn an additional three to five days per month of good time, and some inmates get "meritorious service awards." MSA, as the special awards are called, carry cash payments of from \$5.00 to \$25.00 per month, as well as two days per month good time for the first year of the award.

The Actual Release— Shortly before his release date, the inmate will be called for a "dress-out," i.e., to be fitted for outside clothing. He will be provided with a prison-made suit, hat, and accessories, plus overcoat in winter. He has the option of selecting "work clothing," which, because of the poor caliber of many of the suits, is often more useful. He will be provided with a bus or train ticket to either his place of legal residence (as determined by the prison) or his place of conviction. Usually he can choose which. He is given a small amount of cash (up to about \$30), provided he has not more than a small amount in his prison account at the time.

What he can take out of prison with him depends on local regulations and the whims of the officials. There are usually restrictions on the amount of written material (either letters received or his own writing) which can be taken at the time of release, but sometimes provisions are made so that this material can be mailed out in advance. Writing which is taken out will be censored more or less closely, and sometimes books purchased by the inmate or sent to him must be left behind in the library.

Conscientious Objectors in the Armed Forces

I. Introduction

It is estimated that for every combatant soldier in the field, there must be at least ten noncombatants to support his activities. But whether the noncombatant is a typist, a mechanic, a medic or chaplain's assistant, it is his secondary mission to fight as a combatant if required. The only men without this secondary mission are those who have been classified I-A-O. They are legally exempt from combatant training and duty.

Many of the noncombatant COs get along as well as the regular soldiers. Some have been decorated for heroism, and Army Medical Corps officers have expressed general satisfaction with their performance. But other I-A-Os have gotten into difficulty, most because they held false ideas about the training program of I-A-Os and the military life which they are required to lead.

This Section of the *Handbook*, then, will give brief but helpful information about the training of I-A-Os and the nature of noncombatant duties performed by most COs in the armed forces. If these do not conflict with a man's conscience, presumably he can be a good soldier. But if an objector decides in advance that he cannot conscientiously serve as a noncombatant, he can consider other CO positions while he is still a civilian.

A growing group of men who get into difficulty are those who become COs after entering the armed forces. They adopt either the noncombatant or the alternative service position, or in a few cases, the non-cooperator position. The second purpose of this Section of the *Handbook* is to explain the procedures by which the CO in the armed forces can apply for official recognition of his position.

II. Obtaining Noncombatant Status

CLASSIFICATION BY DRAFT BOARD

Most men in the armed forces who have CO status have obtained that status through Selective Service prior to induction. To receive the I-A-O status, a man must file SSS Form 150 and follow the same procedures as outlined in Part 2 of the *Handbook*. He has the same rights of appeal as men applying for I-O and is inducted at the same time and in the same manner as if he were I-A.

TRANSFER TO NONCOMBATANT DUTY

Members of the armed forces who become conscientious objectors to combatant duty after entering the military can seek transfer to noncombatant status. Procedure for obtaining such a transfer is provided for by Department of Defense Directive 1300.6, dated May 10, 1968. This directive is binding upon all branches of the armed forces and is implemented in the Army by Section 2-12 of AR 600-200 (or Section III-10 of AR 614-260 for officers), in the Air Force by AFR 35-24, in the Navy by BUPERSMAN part C-5210, and in the Marine Corps by MCO 1306.16A.

To transfer from regular duty to noncombatant duty, written application must be made in accordance with the regulations. See Section VII of this chapter for details on making application.

As soon as the CO hands in his application, he is to be placed on noncombatant training and duty pending a final decision, which is made at departmental headquarters (normally without an advisory opinion from Selective Service) within six weeks to four months of the date of submission. If the application is approved, the man is permanently transferred to noncombatant duty. Normally he will be retrained as a medic regardless of his current military occupation. If the application is denied, the CO may submit a second request for transfer, as long as the second request is not substantially the same as the one previously disapproved.

NONCOMBATANT DUTY DEFINED

Noncombatant duty for conscientious objectors in the armed forces was defined by the President in Executive Order No. 10028, dated 13 January 1949, as follows:

- "(a) service in any unit of the armed forces which is unarmed at all times;
- (b) service in the medical department of any of the armed forces, wherever performed; or
- (c) any other assignment the primary function of which does not require the use of arms in combat; provided that such other assignment is acceptable to the individual and does not require him to bear arms or to be trained in their use.

"The term 'noncombatant training' shall mean any training which is not concerned with the study, use, or handling of arms or weapons."

III. Training of Noncombatants

There is no doubt that noncombatants play an important role in the functioning of the military. They are trained for front-line duty since that is where many will be sent. Among the first draftees sent to Vietnam were noncombatant medics.

Because of the heavy need for medics in combat areas, COs undergo much of the same training as regular soldiers. For instance, since they often move through combat areas with combat squads, they must study squad tactics and patrolling, and they must learn how to take cover and move through an infiltration course under fire. Their adherence to military discipline must be as strict as that of the combatant.

Currently all I-A-Os inducted into the Army are sent to Medical Training Center (MTC) at Fort Sam Houston, San Antonio, Texas, for sixteen weeks of training; the first eight weeks is for basic training and the second half for advanced individual training (AIT). All I-A-Os undergo this training before being assigned to a military unit or an installation, unless they fail to pass the required courses. But few fail.

Basic training is considered to be the most important training that a soldier will receive. "There is no Army training more vital than that received by the individual in basic, general military subjects including the fundamentals of basic infantry tactics. It is during this training that the individual receives his first impression of the Army and learns of his obligation to fight. The kind of start he gets will have a profound effect upon the Army in the accomplishment of its training mission or subsequent employment in combat. The better he understands the reason for his actions, the greater will be the likelihood of his ready adjustment to Army life and its demands upon him. . . ."

MTC basic training seeks to prepare soldiers "to keep the manpower of the Army at the highest possible peak of efficiency . . . Manpower is the indispensable element of a military establishment. When sickness and injury cut down the availability of servicemen, the military mission is seriously hampered."

First Eight Weeks Training Period—

During MTC basic, the I-A-O men are trained in separate units, but despite the segregation, there is no question that the I-A-O is part of the Army and is subject to its discipline and way of life.

*Most of the information in this section on the basic training of noncombatants is based on *Army Training Program No. 21-114, Basic Combat Training Program* (November 14, 1958) as modified by *USAMTC Memorandum No. 350-2, Modified Basic Training Program for Conscientious Objectors (I-A-O)*, issued at Fort Sam Houston, Texas, November 5, 1959. Reference was also made to the earlier *Army Training Program No. 8-111*, dated April, 1954.

The I-A-O is trained in military courtesy and custom, military justice and code of conduct, as well as drills and ceremony, guard duty, protection against attack, marching and bivouac, anti-infiltration, and anti-guerrilla warfare training, along with many other military subjects to prepare him for his two years in the military. In place of weapons training, he is given about 70 hours of military driver training, since many COs become ambulance and medical jeep drivers. Four hours of landmine warfare training is optional, though officers at Fort Sam Houston report that most I-A-Os volunteer.

After Basic Training— Men who start their basic training in the first half of the year usually receive a furlough of about ten days at the end of basic training. Men whose basic training starts after the middle of the year usually receive this furlough around Christmas time. At any rate, the second eight weeks of training is to prepare the soldier for a military occupation specialty (MOS). Usually he will become a medical corpsman. As a corpsman he will perform routine phases of patient care and treatment in combat areas and medical facilities under the direct supervision of a commissioned officer or enlisted specialist of the Army Medical Service. He "must know basic anatomy, physiology, materia medica and first aid . . . basic emergency medical care and treatment, including checking of hemorrhage and cleaning and dressing of minor cuts and abrasions." He is also trained in the usage of basic drugs and the basic principles of camouflage and concealment and tent-pitching, as well as other related skills. Those who go on to become Medical Specialists receive four additional weeks of training, during which they learn to administer emergency medical treatment as well as the dispensing of medication for minor injuries and ailments. The Medical Specialist is often the direct supervisor of medical corpsmen. He is taught basic knowledge of anatomy and physiology, including functions of skeletal and muscular, circulatory, respiratory, digestive, nervous and endocrine systems. He learns casualty evacuation and the general principles of nursing.

IV. Mission of the Army Medical Service

"The primary duty of medical troops as of all other troops is to contribute their utmost to the success of the command of which the medical service is a part."

This plain statement of fact from Army Field Manual FM 8-10 (page 195) is perfectly logical. The purpose of armies in combat is to win military victories. Every part of the Army is coordinated toward this goal. Evident as this appears to be, some men are actually inducted into the medical service thinking that the medics are instru-

ments of mercy apart from the Army and its primary objectives. This erroneous conclusion can lead to serious personal difficulties. True, the medics save lives and ease suffering, sometimes in a manner which takes real heroism. But the medic is a soldier, and the ultimate objective of medics is to win battles.

This point is made again and again in Army Field Manual FM 8-10 (*Medical Service Theater of Operations*, dated March, 1951), which outlines the work of the medics in combat areas. Quotations within the text which follows are from the manual, and page references are given.

Saving lives and easing suffering are not even mentioned as part of the mission of the medics. The manual states, "The mission of the medical service in a theater of operations is to contribute to the success of the military effort through—

✓ "a. Conserving Man power. Military strength is preserved by seeing that only the fit take the field, by the protection of troops against unnecessary hazards to health and efficiency, and by effective care and early return to duty.

✓ "b. Preventing Adverse Effects of Unevacuated Casualties on Combat Efficiency. Casualties within any combat unit restrict its movement. Lack of care and proper evacuation reduces the soldier's willingness to take necessary risks. Both can be prevented by adequate medical aid and rapid evacuation." (page 20)

✓ Casualties are called "non-effectives" (page 22) since they cannot contribute to military success.

Maintaining combat efficiency of the rest of the Army is stressed as important for the medics. "The essentiality for physical fitness is a critical factor in the combat efficiency of troops. Military history is rampant with examples of battles that were lost and campaigns that failed solely because the troops were immobilized by disease." (page 22)

"Simple measures, instituted early, often contribute more to combat efficiency than more elaborate measures instituted too late." (page 21)

V. Applying for Discharge

Some men who were drafted as I-A or I-A-O or who enlisted in good conscience find that they can no longer be part of the military, either as combatants or noncombatants. These men can seek discharge under the provisions of DoD 1300.6 as conscientious objectors.

The regulations implementing DoD 1300.6 are: for the Army AR 635-20; the Air Force, AFR 35-24; the Navy, Bureau of Naval Personnel Manual part C-5210; and the Marine Corps, MCO 1306.16A. Men in the Army National Guard or Army Reserve are governed by AR 135-25. Men in the other reserves are governed by the same regulations as active duty personnel.

Men whose applications are successful will be discharged "for the

convenience of the government." The nature of the discharge will be Honorable or General Under Honorable Conditions.

Although the local Selective Service board does not have jurisdiction over a registrant in the armed forces, CCCO nevertheless recommends that the board be asked for SSS Form 150 and that this be filled out and returned.

VI. Making Application

Whether a man is applying for discharge or for transfer to non-combatant status, he follows essentially the same procedure. Just as Selective Service will sometimes try to "bargain," the military will sometimes transfer a man to noncombatant status instead of approving the discharge he seeks. But one should never apply for a discharge in the hope of ending up with a transfer, since his "compromise" will only hurt those who cannot accept noncombatant duty.

Having made this decision, the CO's first step is to prepare an application for submission to his commanding officer. The first page of the Army application should be on a Disposition Form, DA 2496 whenever possible, and the ensuing pages may be on plain typewriter paper. The application must contain all the general information asked for and answer the questions concerning religious training and belief, and, if possible, be accompanied by several good supporting letters. If possible have all documents notarized.

SUPPORTING LETTERS

These letters, in addition to covering the points dealt with in Part 2, should indicate the extent to which the applicant's beliefs have developed and crystallized after his entrance onto active duty. COs in the military often have difficulty getting supporting letters since they are far from their earlier associates. If one can visit or write to those persons who knew him as a civilian, he can explain his newly acquired beliefs and request that the person write a supporting letter testifying to his integrity. Of course letters from military personnel are acceptable and obviously the higher the rank of the writer the more weight the letter will carry.

As soon as the application is handed to the commanding officer, the claimant is required by law to be placed on noncombatant duty (see Section II of this chapter) until such time as final determination is made. Processing for the application normally takes from six weeks to four months, and it is obviously to one's advantage to act in a manner more consistent with his beliefs.

PREPARING THE APPLICATION

Whether a man is applying for discharge or for transfer to non-combatant status, the questions he must answer are the same, with one

exception. The CO applying for discharge is asked whether he will accept an order to perform alternative service, since those who are discharged prior to having served 180 days are obliged to perform two years of civilian alternative service. Even if a man has served longer it is better to express willingness to perform alternative service rather than to leave the question blank or to state that it does not apply.

The questions on religious training and belief are in essence those asked on SSS Form 150. In accordance with the Military Selective Service Act of 1967, the Supreme Being question was dropped, and other questions were modified slightly in the spring of 1968.

The questions should be answered thoughtfully and thoroughly. The answers should be long enough to express the COs beliefs and position clearly, but not so long as to tempt the authorities to skim rather than read them. The CO in the armed forces should read carefully Part 2 in order to get a general idea of how to deal with the questions. He should then note the following comments regarding three of the questions which deal with the specific situation of applying for discharge or transfer:

"a. Describe the nature of your belief which is the basis of your claim." Answer in essentially the same manner as though the Supreme Being question had not been eliminated.

"b. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis of your claim." One's answer should include not only a discussion of one's pre-military religious training, but should also trace in graphic and personal terms the development and crystallization of his *present* beliefs. If his experiences in the military acted as "negative training" as a catalyst, he should say so and explain how.

"c. Describe the actions and behavior in your life which most conspicuously demonstrate the consistency and depth of your religious convictions which give rise to your claim." The applicant must make it clear that his CO beliefs matured after he entered the armed forces or he will not qualify for the status he seeks. He should point out the actions and behavior which on reflection tend to indicate the direction his beliefs were taking. But if true, he should also point out that since the beliefs have only recently crystallized, there has been little opportunity to demonstrate conduct consistent with them. One who has gone AWOL or disobeyed orders or gotten into some other sort of trouble because of his beliefs should not hide this fact. Some men answer this question by pointing out that they are combatant (or noncombatant) soldiers in conscientious conflict with their present positions; thus their application is an attempt to resolve the inconsistency. Other men have gone on to say that they are determined to be consistent in the future even if their application is disapproved.

INTERVIEWS

After the CO submits his application he will be required to have interviews with a chaplain and a psychiatrist (or medical officer). In

addition he will be interviewed by his commanding officer and will have a right to appear with the counsel retained by him before an officer in grade O-3 or above who "is knowledgeable in policies and procedures relating to conscientious objector matters."*

The nature of these interviews may run from extremely hostile to very sympathetic. The questions asked may be anything from intelligent to irrelevant. In any case, the CO should be straightforward and careful to state his beliefs in a positive manner. He should remember that this conscientious objection is more serious than and readily distinguishable from the mere dislike for the military which many enlisted men share.

If the CO is able, he should prepare reports of his interviews and submit them to be included in his application.

Although many men were discharged on grounds of conscience previous to the Spring of 1966, since that time almost all discharges have been denied regardless of merit. Hopefully, because of the new Department of Defense Directive, there will soon be a change in this policy. Those who refuse orders or noncooperate in any other manner are court-martialed and generally released on other grounds after serving one or two six-month prison sentences, although there are at least seventeen COs now in military confinement serving sentences of one year or more.

The CO in the military who is contemplating discharge or transfer to noncombatant status should request from CCCO its memo "The CO and the Armed Forces" as well as a copy of the relevant regulation.

*DoD 1300.6

Bibliography of Conscientious Objection to War

The literature on conscientious objection to war is voluminous. Space limitations has compelled the omission of many interesting titles, many of which, however, are difficult to find in libraries. Preference has been shown the more readily available material. Only books are included in the limited selection. A wealth of material is also available in pamphlet form.

BOOKS

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Reports on activities of CNVA farm, and peace action in general.

Fellowship (Nyack, New York, Fellowship of Reconciliation) (monthly); Supplemented by "Peace Information Edition" (semi-monthly).
The organ of the American Fellowship of Reconciliation, covering pacifism generally with both articles and news.

News Notes (Philadelphia, Central Committee for Conscientious Objectors, 2016 Walnut St. 19103) (bi-monthly).
Good coverage of legal difficulties of COs and resisters; reports changes in draft law and regulations; current information on COs in prison.

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General coverage of CO news, but particularly good for information about I-Ws and their assignments.

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